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Trademark Law of the People's Republic of China (Adopted at the 24th Session of the Standing Committee of the Fifth National People's Congress on August 23, 1982, and Amended According to the Decision on the Revision of the Trademark Law of the People's Republic of China, Adopted at the 30th Session of the Standing Committee of the Seventh National People's Congress on February 22, 1993) (<i>This text replaces the one previously published under the same code number</i>)	Text 3-001
Implementing Regulations Under the Trademark Law of the People's Republic of China (First Revision Approved by the State Council on January 3, 1988; Second Revision Approved by the State Council on July 15, 1993) (<i>This text replaces those previously published under codes 3-002 and 3-003</i>)	Text 3-002
Supplementary Provisions Concerning the Punishment of Crimes of Counterfeiting Registered Trademarks Made by the Standing Committee of the National People's Congress (Adopted at the 30th Session of the Standing Committee of the Seventh National People's Congress on February 22, 1993)	Text 3-003

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Industrial Designs Law (Law No. 129 of December 29, 1992) Text 4-001

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Republic of Macedonia Text 1-001

Notifications Concerning Treaties Administered by WIPO in the Field of Industrial Property

Convention Establishing the World Intellectual Property Organization and Certain Other Treaties Administered by WIPO

Declaration

REPUBLIC OF MACEDONIA
(THE FORMER YUGOSLAV REPUBLIC)

The Government of the Republic of Macedonia deposited, on July 23, 1993, the following declaration:

“The Republic of Macedonia expresses its intention to be considered, in respect of the territory of the Republic of Macedonia and by virtue of succession of the Socialist Federal Republic of Yugoslavia, a party to:

- the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967, and amended on October 2, 1979,
- the Paris Convention for the Protection of Industrial Property, of March 20, 1883, as revised at Stockholm on July 14, 1967, and amended on October 2, 1979,
- the Madrid Agreement Concerning the International Registration of Marks, of April 14, 1891, as revised at Stockholm on July 14, 1967, and amended on October 2, 1979,
- the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, of June 15, 1957, as revised at Geneva on May 13, 1977, and amended on October 2, 1979,
- the Locarno Agreement Establishing an International Classification for Industrial Designs, signed on October 8, 1968, and amended on October 2, 1979,
- the Berne Convention for the Protection of Literary and Artistic Works, of September 9, 1886, as revised at Paris on July 24, 1971, and amended on October 2, 1979.

The Republic of Macedonia accepts the obligations set forth in the said treaties, with all reservations made by the Socialist Federal Republic of Yugoslavia.

The Republic of Macedonia declares that, for the purpose of establishing its contribution towards the budgets of the Paris and the Berne Unions, it wishes to belong to class VII.”

WIPO Notification No. 168, Paris Notification No. 141, Madrid (Marks) Notification No. 57, Nice Notification No. 76, Locarno Notification No. 31, of July 26, 1993.

Paris Convention, Madrid Agreement (Marks), Patent Cooperation Treaty (PCT)

Declaration

UZBEKISTAN

The Government of Uzbekistan deposited, on August 18, 1993, the following declaration:

“The Government of the Republic of Uzbekistan hereby declares that:

- the Paris Convention for the Protection of Industrial Property, of March 20, 1883, as revised at Stockholm on July 14, 1967, and amended on September 28, 1979,
- the Madrid Agreement Concerning the International Registration of Marks, of April 14, 1891, as revised at Stockholm on July 14, 1967, and amended on September 28, 1979,
- the Patent Cooperation Treaty (PCT), of June 19, 1970, as amended on September 28, 1979, and modified on February 3, 1984,

continue to be applicable in respect of the Republic of Uzbekistan.

The Government of the Republic of Uzbekistan declares that, for the purpose of establishing its contribution towards the budget of the Paris Union, the Republic of Uzbekistan wishes to belong to class VII.”

Paris Notification No. 143, Madrid (Marks) Notification No. 58, PCT Notification No. 80, of August 18, 1993.

Paris Convention**New Member of the Paris Union****BOLIVIA**

The Government of Bolivia deposited, on August 4, 1993, its instrument of accession to the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Stockholm on July 14, 1967, and amended on September 28, 1979.

The Paris Convention, as revised at Stockholm on July 14, 1967, and amended on September 28, 1979, will enter into force, with respect to Bolivia, on November 4, 1993.

Bolivia will belong to class IX for the purpose of establishing its contribution towards the budget of the Paris Union.

Paris Notification No. 142, of August 4, 1993.

Budapest Treaty**New Member of the Budapest Union****GREECE**

The Government of Greece deposited, on July 30, 1993, its instrument of accession to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, done at Budapest on April 28, 1977, and amended on September 26, 1980.

The said Treaty, as amended on September 26, 1980, will enter into force, with respect to Greece, on October 30, 1993.

Budapest Notification No. 118, of July 30, 1993.

Notifications Concerning the UPOV Convention**International Convention for the Protection of New Varieties of Plants (UPOV)****New Member of UPOV****NORWAY**

The Government of Norway deposited, on August 13, 1993, its instrument of accession to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised

at Geneva on November 10, 1972, and on October 23, 1978.

Norway has not heretofore been a member of the International Union for the Protection of New Varieties of Plants, founded by the said International Convention.

The said International Convention will enter into force, with respect to Norway, on September 13, 1993. On that date, Norway will become a member of UPOV.

For the purpose of determining its share in the total amount of the annual contributions to the budget of UPOV, one contribution unit is applicable to Norway.

UPOV Notification No. 43, of August 17, 1993.

Normative Activities of WIPO in the Field of Industrial Property

Working Group of Non-Governmental Organizations on Arbitration and Other Extra-Judicial Mechanisms for the Resolution of Intellectual Property Disputes between Private Parties

Third Session
(Geneva, June 2 to 4, 1993)

The third session of the Working Group of Non-Governmental Organizations on Arbitration and Other Extra-Judicial Mechanisms for the Resolution of Intellectual Property Disputes between Private Parties was held at the headquarters of WIPO from June 2 to 4, 1993.¹

The following 27 non-governmental organizations were represented at the meeting: American Arbitration Association (AAA), American Intellectual Property Law Association (AIPLA), Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP), Association for the International Collective Management of Audiovisual Works (AGICOA), Association of Dutch Patent Agents, Netherlands (APA), Brazilian Association of Industrial Property Agents (ABAPI), Brazilian Association on Industrial Property (ABPI), Committee of National Institutes of Patent Agents (CNIPA), Federal Chamber of Patent Attorneys (Patentanwaltskammer (PAK)), Germany (FCPA), Federation of German Industry (BDI), Geneva Chamber of Commerce and Industry (CCIG), Institute of Intellectual Property (IIP), Institute of Professional Representatives Before the European Patent Office (EPI), Inter-American Association of Industrial Property (ASIPI), International Association for the Protection of Industrial Property (AIPPI), International Bureau of Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM), International Chamber of Commerce (ICC), International Confederation of Societies of Authors and Composers (CISAC), International Federation of Associations of Film Distributors (FIAD), International Federation of Industrial Property Attorneys (FICPI), International Literary and Artistic Association (ALAI), International Publishers Association (IPA), Japan Patent Association (JPA), Licensing Executives Society

International (LESI), Swiss Arbitration Association (ASA), The Chartered Institute of Arbitrators (CI Arb), Union of Industrial and Employers' Confederations of Europe (UNICE). Four experts, invited by the International Bureau, also participated in the meeting.

Discussions were based on the following working documents prepared by the International Bureau: "Services Proposed to be Offered by WIPO" (document ARB/WG/III/1), "Draft WIPO Mediation Rules" (document ARB/WG/III/2), "Draft WIPO Arbitration Rules" (document ARB/WG/III/3), "Draft WIPO Mini-Arbitration Rules" (document ARB/WG/III/4) and "Draft Model Contract Clauses and Submission Agreements" (document ARB/WG/III/5). Documents ARB/WG/III/2 and 3 are reproduced hereafter.

The Working Group considered proposed services that WIPO might provide in relation to certain dispute-settlement procedures for intellectual property disputes between private parties. Four such dispute-settlement procedures were discussed, namely:

(i) mediation, a procedure in which a neutral third party, the mediator, selected by the parties to the dispute, endeavors to assist parties in understanding their respective positions and in reaching a mutually satisfactory resolution of the dispute, but in which the mediator has no power to impose a settlement on the parties;

(ii) arbitration, a procedure whereby the parties to a dispute submit the dispute to an arbitrator or a Tribunal of Arbitrators, chosen by them, to be settled, in accordance with rules selected by the parties, by a binding decision of the arbitrator or the Tribunal;

(iii) expedited arbitration (referred to in the working documents as "mini-arbitration"), a modified arbitration procedure in which the arbitral proceedings are conducted pursuant to strict time limits by a sole arbitrator, usually without a hearing;

¹ For a note on the second session, see *Industrial Property*, 1993, p. 131.

(iv) mediation and default arbitration, a combined procedure whereby, should the dispute not be settled through mediation, it is referred to arbitration for a binding decision.

Four principal proposed services that the working documents envisaged that WIPO might provide in relation to the four dispute-settlement procedures outlined above were discussed.

The first such service would be the making available of rules for the conduct of each of the procedures. Drafts of such rules were contained in the working documents and were discussed in depth by the Working Group with a view to designing the most efficient and least costly procedures.

The second proposed service would be the making available of model clauses for adoption in contracts defining a business relationship between parties, pursuant to which the parties would agree to submit disputes arising under the contract to one of the above-mentioned four procedures, as well as of model submission agreements, which could be used by parties not standing in a preexisting contractual relationship to submit, on an *ad hoc* basis, a given dispute to one of the four procedures.

The third service would consist, in certain circumstances, of the appointment of mediators or arbitrators, in respect of given disputes, by the Director General of WIPO.

The fourth service contemplated was the establishment, by the International Bureau in consultation with both the parties and the proposed mediator or arbitrators, of the fees payable to mediators or arbitrators with respect to given disputes, as well as the administration of those fees.

The meeting commended the International Bureau on the quality of the working documents and agreed that the draft rules presented in those documents furnished a good basis on which WIPO could proceed to establish the services outlined in document ARB/WG/III/1 (“Services Proposed to be Offered by WIPO”). It endorsed, in particular, the establishment of services to be provided by WIPO in accordance with those rules in respect of mediation, arbitration, expedited arbitration and mediation and default arbitration.

DRAFT WIPO MEDIATION RULES

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Application of Rules

1. Where the parties to a contract have agreed in writing that disputes in relation to that contract or that a given dispute shall be submitted to mediation under the auspices of the World Intellectual Property Organization (“WIPO”) or in accordance with the WIPO Mediation Rules, these Rules, as amended and in effect on the date of a written request for mediation in accordance with Rule 2, shall be deemed to form part of that contract, subject to any modifications that the parties may agree in writing.

Initiation of Mediation

2. (a) Any person party to a contract referred to in Rule 1 may file a written request for mediation with the International Bureau of WIPO (“the International Bureau”).

(b) The request for mediation shall

- (i) set out the names and addresses of the parties to the dispute,
- (ii) contain a brief statement of the nature of the dispute, and
- (iii) be accompanied by the filing fee.

(c) The party filing the request for mediation shall send a copy of the request to each other party to the dispute at the same time as it files the request with the International Bureau.

Appointment of Mediator

3. (a) Unless the parties agree independently on the identity of the mediator or on another method for appointing the mediator, the mediator shall be appointed by the Director General of WIPO (“the Director General”) in consultation with the parties.

(b) Before accepting appointment, a candidate for the position of mediator shall assure the parties in writing of his or her availability to conduct the mediation expeditiously.

4. The fees of the mediator, and the modalities of the payment of such fees, shall be fixed by the International Bureau, in consultation with the mediator

and the parties, in advance of the first meeting of the parties with the mediator.

Disclosure of Interests

5. (a) Before accepting appointment as mediator, a candidate shall disclose in writing to the parties any financial or personal interest in the outcome of the mediation or any other circumstance known to the candidate that might raise reasonable doubt about the impartiality of the candidate as mediator of the dispute. If any party objects to the appointment of the candidate because of any such information disclosed by the candidate, the Director General shall, unless the parties agree independently on the identity of the mediator or on another method for appointing the mediator, appoint another mediator.

(b) If, at any stage during the conduct of the mediation, there is a change of circumstances of the mediator so that he becomes affected by a financial or personal interest in the outcome of the mediation or becomes aware of any other circumstance that might raise reasonable doubt about his impartiality, the mediator shall disclose that circumstance in writing to the parties. In such case, unless the parties agree otherwise, the Director General shall appoint another mediator.

Replacement of Mediator

6. If the mediator becomes unwilling or unable to serve, the Director General shall, unless the parties agree otherwise, appoint another mediator.

Place and Times of Mediation

7. The mediator shall, in consultation with the parties, fix the date, time and place of each meeting with the parties.

Representation of Parties

8. (a) Each party may be represented in the meetings with the mediator. The names and addresses of persons authorized to represent each party shall be communicated by the party concerned to each other party and to the International Bureau.

(b) The mediator may limit the number of persons representing each party.

Conduct of Mediation

9. The mediator shall be neutral and impartial.

10. Each party shall cooperate in good faith with the mediator to advance the mediation as expeditiously as possible.

11. The mediator shall control the procedure of the mediation. He shall be free to meet and to communicate separately with each party.

12. (a) At least 10 days prior to the first meeting of the parties with the mediator, each party shall submit to the mediator a statement summarizing the background and the present status of the dispute, together with such other information and materials as it considers necessary in order to inform the mediator of the background to the dispute and to enable the mediator to identify the issues in dispute.

(b) The mediator may at any time during the mediation process request a party to submit to him such additional information or material as he deems necessary.

(c) Unless authorized by the party submitting such information or material, the mediator shall not give to any other party a copy of any information or material submitted to him by one party.

Authority of Mediator

13. (a) The mediator shall have no authority to impose a settlement on the parties, but shall promote the settlement of the issues in dispute between the parties in any manner that he believes to be appropriate.

(b) Where the mediator believes that any issues in dispute between the parties are not susceptible to resolution through mediation, he shall propose for the consideration of the parties procedures or means for resolving those issues which he considers are most likely, having regard to the circumstances of the dispute and any business relationship between the parties, to lead to the most efficient, least costly and most productive settlement of those issues.

(c) Before terminating the mediation process, the mediator may submit for the consideration of the parties a final settlement proposal which he considers to be fair and equitable. At the request of the mediator, the parties will discuss the proposal with the mediator.

14. The mediator may obtain expert advice on any of the technical issues of the dispute, provided that the parties agree to bear the cost of obtaining such advice.

Confidentiality

15. There shall be no stenographic or typed record of any part of the mediation process.

16. Each person involved in the mediation process, including, in particular, the mediator, the parties and their representatives and advisors and any independent experts, shall respect the confidentiality of the

mediation process and may not, unless the parties agree otherwise, disclose any information concerning, or obtained in the course of, the mediation process to any outside party.

17. On the termination of the mediation process, each person involved in the process shall return, to the party providing it, any document or other material supplied by a party, without retaining any copy thereof.

18. The mediator and the parties agree not to introduce as evidence or in any manner whatsoever in any judicial or arbitration proceeding:

(a) any views expressed or suggestions made by any party with respect to a possible settlement of the dispute;

(b) any admissions made by any party in the course of the mediation process;

(c) any proposals made or views expressed by the mediator;

(d) the fact that any party had or had not indicated willingness to accept any proposal for settlement made by the mediator or by another party.

Termination of the Mediation

19. The mediation process shall be terminated

(a) by the execution of a settlement agreement covering any or all of the issues in dispute between the parties;

(b) by the mediator if, in his judgment, further efforts at mediation are unlikely to lead to a resolution of the dispute;

(c) by any party at any time after attending the first meeting with the mediator and before the execution of any settlement agreement.

20. Upon the termination of the mediation process the mediator shall inform the International Bureau in writing that the mediation is terminated and shall indicate whether or not the mediation resulted in a settlement of the dispute and, if so, whether the settlement was full or partial. The International Bureau shall maintain the notice of the mediator in confidence and shall not disclose either the existence or the result of the mediation to any person.

21. Unless all parties and the mediator agree otherwise in writing, the mediator shall not act in any capacity whatsoever in any pending or future proceedings, whether judicial or extra-judicial, relating to the subject matter of the mediation.

Fees and Costs

22. Unless the parties agree otherwise or the settlement agreement provides otherwise, the filing fee,

the fees of the mediator and, subject to Rule 23, all other expenses of the mediation, including, in particular, the required travel expenses of the mediator and the expenses associated with obtaining expert advice, shall be borne in equal shares by the parties.

23. The expenses of any witness for a party shall be borne by the party producing that witness.

Exclusion of Liability

24. Neither WIPO nor the mediator shall be liable for any act or omission in connection with the mediation.

Interpretation of Rules

25. These rules shall, insofar as they relate to the mediator's role and the conduct of the mediation, be interpreted by the mediator. All other rules shall be interpreted by the International Bureau.

DRAFT WIPO ARBITRATION RULES

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I. GENERAL PROVISIONS

Scope of Application of Rules

1. Where the parties to a contract have agreed in writing that disputes in relation to that contract or that a given dispute shall be referred to arbitration under the WIPO Arbitration Rules, these Rules shall be deemed to form part of that contract and any dispute arising thereunder or the given dispute shall be settled in accordance with these Rules, as amended and in effect on the date of the notice of arbitration given under Rule 7, subject to any modifications that the parties may agree in writing.

2. These Rules shall govern the arbitration, except that, where any of these Rules is in conflict with a provision of the law applicable to the arbitration from which the parties cannot derogate, that provision shall prevail.

Abbreviated Expressions

3. In these Rules:

“WIPO” means the World Intellectual Property Organization;

“Director General” means the Director General of WIPO;

“International Bureau” means the International Bureau of WIPO;

“Claimant” means the party initiating recourse to arbitration by giving written notice of arbitration to

the International Bureau and to the party or parties against whom a claim is being made;

“Respondent” means the party against whom a claim is made by a claimant;

“Tribunal” includes a sole arbitrator or all the arbitrators where more than one is appointed;

“Arbitration agreement” means a clause in a contract stipulating that disputes in relation to that contract shall be referred to arbitration, or an independent contract stipulating that a given dispute shall be referred to arbitration.

Interpretation of Rules

4. These rules shall, insofar as they relate to the powers and duties of the Tribunal, be interpreted by the Tribunal. All other rules shall be interpreted and applied by the International Bureau.

Notices

5. (a) All notices, including notifications, communications, proposals or papers, authorized or required to be given under these Rules, shall be given in writing and shall be deemed to have been received if sent by pre-paid mail, telex or facsimile, or delivered personally, to the addressee at its last known place of habitual residence or place of business.

(b) Notices shall be deemed to have been received

(i) where sent by mail, on the fifth day after the date of mailing;

(ii) where sent by telex or facsimile, on the day after they are transmitted by the sender;

(iii) where delivered personally, on the day of delivery.

Calculation of Periods of Time

6. For the purposes of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice, notification, communication or proposal is deemed to have been received. If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period is extended until the first business day which follows. Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.

II. COMMENCEMENT OF THE ARBITRATION

Notice of Arbitration

7. The claimant shall address to the International Bureau and the respondent a written notice of arbitration.

8. The arbitration shall be deemed to commence on the date on which the notice of arbitration is received by the International Bureau.

9. The notice of arbitration shall contain or be accompanied by the following:

- (i) a demand that the dispute be referred to arbitration pursuant to these Rules;
- (ii) the names and addresses of the parties;
- (iii) the text of the arbitration agreement that is involved;
- (iv) a statement of the claim and a description of the facts supporting it;
- (v) a description of the relief or remedy sought and an indication of the amount claimed, if any.

Statement of Defense

10. Within 30 days after receipt of the notice of arbitration, the respondent shall deliver to the International Bureau and to the claimant a statement of defense, which shall contain or be accompanied by:

- (i) any comments on any of the items included in the notice of arbitration;
- (ii) a statement of the respondent's defense;
- (iii) a notice of any counter-claims made, or any set-offs asserted, by the respondent within the scope of the arbitration agreement, which notice shall contain or be accompanied by elements corresponding to items (i) to (v) of Rule 9.

11. Failure to deliver a statement of defense within the time period allowed shall not delay the arbitration. In the event of such failure, all claims set forth in the notice of arbitration shall be deemed denied.

Reply to Counter-Claim or Set-Off

12. Within 30 days after receipt of the statement of defense, the claimant shall, if the statement of defense contains a counter-claim or asserts a set-off, deliver to the International Bureau and the respondent a reply to the counter-claim or set-off which shall contain or be accompanied by elements corresponding to items (i) to (iii) of Rule 10.

Amendments to Claims or Defense

13. Claims or counter-claims within the scope of the arbitration agreement may be freely amended or added prior to the establishment of the Tribunal and thereafter with the consent of the Tribunal. Statements of defense or replies to amended or new claims or counter-claims shall be delivered to the International Bureau and the other party to the arbitration within 20 days after receipt of the amendment or addition.

Representation

14. The parties may be represented or assisted by persons of their choice. The names, addresses and functions of such persons shall be communicated in writing to the International Bureau and to the other party.

III. COMPOSITION AND ESTABLISHMENT OF THE TRIBUNAL

Sole Arbitrator

15. Unless the parties have agreed otherwise in writing, the Tribunal shall consist of a sole arbitrator, appointed in accordance with Rule 18.

Three Arbitrators

16. (a) Where the parties have agreed in writing to appoint three arbitrators without specifying the method of appointment of those arbitrators, each party shall select one arbitrator and the third arbitrator, who shall chair the Tribunal, shall be appointed by the two other arbitrators.

(b) Any party required to select an arbitrator shall notify the International Bureau and the other party of the name and address of that arbitrator within 30 days after the date of the notice of arbitration.

(c) The two arbitrators selected by the parties shall appoint the third arbitrator within 30 days after the date of the statement of defense.

Appointment Pursuant to Method Specified in the Arbitration Agreement

17. (a) If the arbitration agreement specifies a method of appointing the arbitrator or arbitrators other than as envisaged in these Rules, that method shall be followed. Promptly after the appointment of the Tribunal pursuant to that method, the parties shall file with the International Bureau a notice of appointment specifying the name and address of the arbitrator or arbitrators so appointed.

(b) If the arbitration agreement specifies a period of time within which an arbitrator shall be appointed and the appointment is not made within that period, the arbitrator shall be appointed in accordance with Rule 18.

Appointment by the Director General

18. (a) Where

(i) a sole arbitrator is, by virtue of Rule 15, to be appointed,

(ii) a party is, in accordance with Rule 16, required to appoint an arbitrator and has not done so within the time limit specified in that Rule,

(iii) two arbitrators are, in accordance with Rule 16, required to appoint a third arbitrator and have not done so within the time limit specified in that Rule,

(iv) the arbitration agreement specifies a method of appointing an arbitrator and a period of time within which the appointment is to be made and the arbitrator is not appointed within that period, the Director General shall appoint the arbitrator in accordance with the provisions of this Rule.

(b) The Director General shall send to each party an identical list of not less than four candidates which shall include a brief statement of each candidate's qualifications.

(c) Each party shall note briefly any objections that it has to any of the candidates on the list, number the remaining candidates in order of preference and deliver the list so marked to the Director General and to the other party within 10 days after the date on which the list is deemed to have been received by it. Any party failing to return the list so marked within the said time period shall be deemed to have assented to all the candidates on the list.

(d) The Director General shall appoint as arbitrator the candidate for whom the parties collectively have indicated the highest preference. If two candidates are equally preferred, the Director General may appoint either of them.

(e) If for any reason the arbitrator cannot be appointed from the list, the Director General shall appoint a person whom he deems suitable and qualified to act as arbitrator.

(f) The Director General shall notify the parties of the appointment made in accordance with this Rule.

Impartiality and Independence

19. (a) Each arbitrator shall be impartial and independent.

(b) Each arbitrator shall disclose in writing to the parties and to the International Bureau before accepting his or her appointment any financial or personal interest in the outcome of the arbitration and any other circumstances that might give rise to justifiable doubt as to the arbitrator's impartiality or independence. If, at any stage during the arbitration, there is a change of circumstances so that the arbitrator becomes affected by such a financial or personal interest or by any of the said other circumstances, the arbitrator shall promptly disclose such interest or circumstances in writing to the parties and to the International Bureau.

Challenge of Arbitrators

20. (a) Any arbitrator may be challenged if circumstances exist or arise that give rise to justifiable

doubt as to the arbitrator's impartiality or independence.

(b) A party may challenge an arbitrator whom it has appointed only for reasons of which it becomes aware after the appointment has been made.

21. (a) A party wishing to challenge an arbitrator shall send notice of the challenge to the International Bureau within 15 days after being notified of the appointment of the challenged arbitrator, or within 15 days after becoming aware of the circumstances that it considers give rise to justifiable doubt as to the arbitrator's impartiality or independence.

(b) The notice of challenge shall be in writing and shall state the reasons for the challenge.

(c) The International Bureau shall send a copy of the notice of challenge to the other party and to the challenged arbitrator.

22. When an arbitrator has been challenged by a party, the other party may agree to the challenge or the arbitrator may voluntarily withdraw. In neither case does this imply acceptance of the validity of the grounds for the challenge.

23. If the other party does not agree to the challenge and the challenged arbitrator does not withdraw, the decision on the challenge shall be made by the Director General in his sole discretion.

Replacement of an Arbitrator

24. In the event of the death or resignation of an arbitrator or of a successful challenge of an arbitrator during the course of the arbitration, a substitute arbitrator shall be selected or appointed pursuant to the procedure provided for in Rules 15 to 18 that was applicable to the selection or appointment of the arbitrator being replaced.

25. In the event that an arbitrator fails to act or in the event of the *de jure* or *de facto* impossibility of his performing his functions, the procedure in respect of the challenge and replacement of an arbitrator as provided in the preceding rules shall apply.

26. If the sole arbitrator or the Chairman of the Tribunal is replaced, the successor shall decide the extent to which any hearings previously held shall be repeated. If any other arbitrator is replaced, the Tribunal may in its discretion require that some or all prior hearings be repeated.

Pleas as to the Jurisdiction of the Tribunal

27. (a) The Tribunal shall have the power to hear and determine objections to its own jurisdiction.

including any objections with respect to the existence or validity of the arbitration agreement.

(b) The Tribunal shall have the power to determine the existence, validity or scope of any contract of which the arbitration agreement forms part. For the purposes of challenges to the jurisdiction of the Tribunal, the arbitration agreement shall be considered as independent of and severable from any contract of which it forms part.

(c) A plea that the Tribunal does not have jurisdiction shall be raised not later than in the statement of defense or, with respect to a counter-claim, the reply to the counter-claim.

IV. CONDUCT OF THE ARBITRATION

Place of Arbitration

28. (a) Unless otherwise agreed in writing by the parties, the arbitration shall be held in Geneva at the premises of WIPO.

(b) The Tribunal may hold meetings for consultation among its members at any place that it considers appropriate, having regard to the circumstances of the arbitration.

(c) The Tribunal may meet at any place that it considers appropriate for the inspection of goods, other property or documents. The parties shall be given sufficient notice to enable them to be present at such inspection.

(d) The award shall be deemed to have been made at the place of the arbitration.

(e) Where the place of arbitration is Geneva and the parties are not nationals of Switzerland or corporations having their principal place of business in Switzerland, the award shall not be subject to review by the courts of Switzerland.

Language of Arbitration

29. (a) Unless otherwise agreed in writing by the parties, the language of the arbitration shall be the language of the arbitration agreement, subject to the power of the Tribunal to determine otherwise based upon the contentions of the parties and the circumstances of the arbitration.

(b) The Tribunal may order that any documents submitted in languages other than the language of arbitration shall be accompanied by a translation into the language of arbitration.

General Powers of the Tribunal

30. (a) Subject to these Rules, the Tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are treated with

equality and that each party is given a fair opportunity to present its case.

(b) The proceedings shall be conducted in an expeditious manner. The Tribunal shall have the power to impose time limits which it considers reasonable on each phase of the proceedings, including limits in respect of the time allowed to each party for the presentation of its case and for rebuttal.

(c) Where the Tribunal consists of three arbitrators, the Chairman shall be responsible for the organization of conferences and hearings and arrangements with respect to the functioning of the Tribunal.

Communication between Parties and between Parties and an Arbitrator

31. (a) Except as otherwise provided in these Rules or permitted by the Tribunal, no party or anyone acting on its behalf shall have any *ex parte* communication with any arbitrator with respect to any matter of substance relating to the arbitration, except that, where the Tribunal consists of three arbitrators, a party may confer with an arbitrator that it has appointed concerning the selection of the Chairman of the Tribunal.

(b) Documents or other information in written form supplied to the Tribunal by one party shall at the same time be supplied by that party to the other party.

Applicable Law

32. (a) The Tribunal shall apply the substantive law or laws designated by the parties as applicable to the dispute. Failing such a designation by the parties, the Tribunal shall apply the law determined by the conflict of law rules which it considers applicable.

(b) In arbitration involving the application of contracts, the Tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the contract.

(c) The Tribunal shall decide as *amiable compositeur* or *ex aequo et bono* only if the parties have authorized it to do so.

Pre-Hearing Conference

33. (a) As soon as possible after the appointment of the Tribunal, the Tribunal shall hold a pre-hearing conference for the purpose of planning and scheduling in the most expeditious and cost-effective manner the future conduct of the arbitration.

(b) The matters to be considered at the pre-hearing conference shall, at the discretion of the Tribunal, include

(i) the desirability of settlement negotiations or mediation in respect of all or any issues;

(ii) the identification of the issues in dispute;

(iii) the possibility of admissions by the parties solely for the purposes of the arbitration;

(iv) the procedural aspects of the arbitration, including the timing and manner of any required pre-hearing disclosure; the need for and arrangements with respect to a stenographic or typed record and interpretation; the scheduling of pre-hearing memoranda and of hearings; the allocation of time to each party for the presentation of its case and for rebuttal; the need for expert witnesses; and the desirability of any on-site inspection by the Tribunal;

(v) the need for the appointment of an independent expert by the Tribunal.

(c) The Tribunal may convene such further pre-hearing conferences as it may consider appropriate.

(d) The Tribunal may make pre-hearing orders for the arbitration in order to identify or clarify the issues in dispute and may instruct the parties to file more detailed statements of claim and of defense.

Pre-Hearing Disclosure

34. (a) The Tribunal may permit or order such disclosure by each party prior to the hearing as it considers to be appropriate in the circumstances.

(b) The Tribunal may, at the request of a party, make orders to preserve the confidentiality of trade secrets or other confidential information ordered to be disclosed.

Pre-Hearing Memoranda

35. Unless otherwise determined by the Tribunal, each party shall submit to the Tribunal and to the other party, within such period of time as the Tribunal shall decide, a pre-hearing memorandum which shall include the following elements:

(i) a statement of the applicable law on which the party relies;

(ii) a summary of the evidence that the party intends to present, including the name, capacity and subject of testimony of any witnesses to be called, the language in which each witness will testify and an estimate of the amount of time required for the witness's direct testimony.

Evidence

36. (a) Each party shall have the burden of proving the facts relied on to support its claim or defense.

(b) The Tribunal shall determine whether evidence shall be presented in written or oral form.

(c) At any time during the arbitration, the Tribunal may order parties to produce such other

documents, exhibits or evidence as it considers necessary or appropriate.

(d) The Tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

Hearings

37. (a) The Tribunal shall give each party adequate notice of the date, time and place of any oral hearing.

(b) Hearings shall be *in camera* unless the parties agree otherwise. The Tribunal may require any witness or witnesses to retire during the testimony of other witnesses.

(c) The Tribunal shall determine the manner in which witnesses are to be examined.

(d) If a witness testifies in a language other than the language of the arbitration, the party producing such witness shall arrange at its expense for interpretation into the language of the arbitration. At the request of the Tribunal, the International Bureau shall, provided that the place of the hearing is the headquarters of WIPO in Geneva, arrange for interpretation at the expense of the party producing the witness.

Interim Measures of Protection

38. (a) At the request of any party, the Tribunal may take any interim measures it deems necessary in respect of the subject matter of the dispute, including measures for the conservation of goods which form part of the subject matter in dispute, such as an order for their deposit with a third person or for the sale of perishable goods.

(b) Such interim measures may be established in the form of an interim award. The Tribunal may require security for the costs of such measures.

(c) A request for interim measures addressed by a party to a judicial authority shall not be deemed incompatible with the arbitration agreement or a waiver of that agreement.

Experts

39. (a) The Tribunal may appoint one or more independent experts to report to it, in writing, on specific issues designated by the Tribunal. A copy of the expert's terms of reference, established by the Tribunal, shall be communicated to the parties.

(b) The parties shall provide any such expert with any relevant information or produce for inspection any relevant documents or goods that the expert may require. Any dispute between a party and the expert as to the relevance of the required information or production shall be referred to the Tribunal for decision.

(c) Upon receipt of the expert's report, the Tribunal shall communicate a copy of the report to the parties, who shall be given the opportunity to express, in writing, their opinion on the report. A party may examine any document on which the expert has relied in such a report, subject to the power of the Tribunal to make orders for the preservation of the confidentiality of trade secrets or other confidential information dealt with in the report.

(d) At the request of any party, the parties shall be given the opportunity to question the expert at a hearing. At this hearing, the parties may present expert witnesses to testify on the points at issue.

Default

40. (a) If one of the parties, duly notified under these Rules, fails to appear at a hearing, without showing sufficient cause for such failure, the Tribunal may proceed with the arbitration.

(b) If one of the parties, duly invited to produce evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the Tribunal may make the award on the evidence before it.

Closure of Hearings

41. (a) The Tribunal may declare the hearings closed when it is satisfied that the parties have had adequate opportunity to present evidence and submissions and that the record is sufficiently complete to enable a fair award to be made.

(b) A determination by the Tribunal that evidence is not admissible or that further evidence should not be allowed shall not constitute a ground of invalidity of the award.

(c) The Tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own motion or upon application of a party, to reopen the hearings at any time before the award is made.

Waiver of Rules

42. A party who knows that any provision of, or requirement under, these Rules has not been complied with and yet proceeds with the arbitration without promptly making an objection in writing to such non-compliance, shall be deemed to have waived its right to object.

V. DECISIONS, AWARDS AND RULINGS

Decisions

43. (a) Unless the arbitration agreement provides otherwise, where there are three arbitrators, any

award or other decision of the Tribunal shall be made by a majority of the arbitrators.

(b) In the case of questions of procedure, when there is no majority or when the Tribunal so authorizes, the Chairman may decide on his own, subject to revision by the Tribunal.

Types of Awards and Remedies

44. (a) The Tribunal may make final, interim, interlocutory or partial awards.

(b) The Tribunal may grant any remedy or relief within the scope of the arbitration agreement which is permissible under the law or laws applicable to the arbitration in accordance with Rule 32, or, if the parties have authorized the Tribunal to decide as *amiable compositeur* or *ex aequo et bono*, any remedy or relief which the Tribunal deems just and equitable.

(c) In particular, the Tribunal may direct a party that is the owner of an intellectual property right to exercise that right in respect of another party in such manner as the Tribunal considers appropriate. Such a direction shall not imply the invalidity of the intellectual property right.

Form of Awards

45. (a) Awards shall be in writing.

(b) Unless the parties have agreed that the Tribunal shall state the reasons upon which the award is based, the award shall not contain reasons.

(c) The award shall contain the date on which and the place where the award was made, which shall be the place determined in accordance with Rule 28.

(d) An award signed by a majority of the arbitrators shall be sufficient. Where there are three arbitrators and one of them fails to sign, the award shall state the reason for the absence of the signature.

(e) An award may be made public only with the consent of both parties.

(f) Copies of the award signed by the arbitrators shall be communicated by the Tribunal to the parties and to the International Bureau.

(g) If the arbitration law of the country where the award is made requires that the award be filed or registered, the Tribunal shall comply with this requirement within the period of time required by law.

Effect of Awards

46. Awards shall be final and binding on the parties. The parties undertake to carry out the award without delay.

Time Period for Delivery of the Final Award

47. The arbitration should, wherever possible, be heard and the hearings declared closed within nine months after the pre-hearing conference required by Rule 33. The final award should, wherever possible, be made within three months thereafter. The parties and the Tribunal shall use their best efforts to comply with these time periods.

Settlement or Other Grounds for Termination

48. (a) Any party may propose settlement negotiations to the other party at any time. The Tribunal may suggest that the parties explore settlement at such times as the Tribunal may deem appropriate.

(b) If, before the award is made, the parties agree on a settlement of the dispute, the Tribunal shall terminate the arbitration and, if requested by all parties, record the settlement in the form of an award on agreed terms. The Tribunal shall not be obliged to give reasons for such an award.

(c) If, before the award is made, the continuation of the arbitration becomes unnecessary or impossible for any reason not mentioned in paragraph (b), the Tribunal shall inform the parties of its intention to terminate the arbitration. The Tribunal shall have the power to issue such an order terminating the arbitration, unless a party raises justifiable grounds for objection.

(d) Copies of the order for termination of the arbitration or of the award on agreed terms, signed by the arbitrators, shall be communicated by the Tribunal to the parties and to the International Bureau.

Interpretation or Correction of the Award

49. (a) Within 30 days after the receipt of an award, any party, with notice to the other party, may request the Tribunal to give an interpretation of the award, to correct any clerical, typographical or computational errors or to make an additional award concerning claims presented but not dealt with in the award.

(b) If the Tribunal considers such a request justified, after considering the contentions of the parties, it shall comply with the request within 30 days after receipt of the request.

VI. FEES AND COSTS

Fees of the Arbitrators

50. (a) The fees of the arbitrators shall be fixed, in accordance with the provisions of this Rule, by the International Bureau, in consultation with the arbitra-

tors and the parties, at the same time as the appointment of the arbitrators.

(b) The determination of the fees of the arbitrators shall take into account the estimated time to be spent by the arbitrators, the amount in dispute, the complexity of the subject matter and any other relevant circumstances of the case.

(c) After consultation with the parties and the arbitrators, the International Bureau shall propose a lump sum which shall constitute the entire fees payable to the arbitrators in respect of the arbitration. The International Bureau shall, at the same time, propose the modalities pursuant to which that lump sum shall be paid.

(d) Notwithstanding the preceding paragraph, the parties and the arbitrators may agree on a different method for fixing the fees of the arbitrators and for the modalities of the payment of those fees. In the absence of any such agreement, the fees of the arbitrators shall be fixed as the lump sum proposed by the International Bureau in accordance with the preceding paragraph, which shall be paid according to the modalities proposed by the International Bureau pursuant to the same paragraph.

Costs Awarded by the Tribunal

51. The Tribunal shall fix the costs of arbitration in its award. The Tribunal may apportion such costs among the parties in such manner as it deems reasonable, taking into account the circumstances of the case, the conduct of the parties during the arbitration and the result of the arbitration. Such costs shall include:

- (i) the fees of the arbitrators;
- (ii) the travel and other expenses incurred by the arbitrators;
- (iii) the costs of expert advice and of other assistance required by the Tribunal;
- (iv) the travel, interpretation and other expenses of witnesses to such extent as the Tribunal may deem appropriate;
- (v) the costs of legal representation and assistance incurred by a party to such extent as the Tribunal may consider reasonable;
- (vi) any fees and expenses of the International Bureau;
- (vii) the cost of any transcript;
- (viii) the costs of meeting and hearing facilities.

Deposit of Costs

52. (a) At the time of the establishment of the Tribunal, each party shall deposit an equal amount as an advance for the costs referred to in Rule 51, except those specified in item (v). The amount of the deposit shall be determined by the International Bureau.

(b) In the course of the arbitration, the International Bureau may request supplementary deposits from the parties.

(c) If the required deposits are not paid in full within 30 days after the receipt of the request, the International Bureau shall so inform the parties in order that one or another of them may make the required payment. If such payment is not made, the Tribunal may order the termination of the arbitration and the arbitration agreement shall be considered to be revoked.

(d) After the award has been made, the International Bureau shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties.

VII. MISCELLANEOUS

Confidentiality

53. (a) Unless the parties agree otherwise, the International Bureau, the arbitrators and the parties shall

treat the arbitration, any disclosures made during the arbitration and the decisions of the Tribunal as confidential, except in connection with a judicial challenge to, or enforcement of, an award, or as otherwise required by law.

(b) Notwithstanding paragraph (a), the International Bureau may include information concerning the arbitration in any aggregate statistical data that it publishes concerning its activities, provided that such information does not enable the identity of the parties or the subject matter of the dispute to be identified.

Exclusion of Liability

54. The members of the Tribunal, WIPO, the Director General and the International Bureau shall not be liable to any party for any act or omission in connection with any arbitration conducted under these Rules, except that they may be liable to a party for the consequences of conscious and deliberate wrongdoing.

Paris Union

Committee of Experts on the Harmonization of Laws for the Protection of Marks

Fifth Session
(Geneva, June 7 to 18, 1993)

Introduction

The Committee of Experts on the Harmonization of Laws for the Protection of Marks (hereinafter referred to as "the Committee of Experts") held its fifth session in Geneva from June 7 to 18, 1993.¹

The following States members of the Paris Union were represented at the session: Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China, Côte d'Ivoire, Czech Republic, Democratic People's Republic of Korea, Denmark, Egypt, Finland, France, Germany, Hungary, Indonesia, Ireland, Italy, Japan, Kenya, Latvia, Lesotho, Libya, Luxembourg, Malta, Mexico, Morocco, Netherlands, New Zealand, Norway, Portugal, Republic of Korea, Romania, Russian Federation, Slovenia, Spain, Swaziland, Sweden, Switzerland, Ukraine, United Kingdom, United States of America, Yugoslavia, Zimbabwe (47). In addition, the European Communities (EC) were represented.

The following States members of WIPO were represented by observers: India, Lithuania, Thailand, United Arab Emirates (4). Representatives of two intergovernmental organizations and 17 non-governmental organizations also participated in the session in an observer capacity.²

Discussions were based on the following documents prepared by the International Bureau of WIPO: "Draft Trademark Law Treaty" (document HM/CE/V/2) and "Draft Regulations under the Draft Trademark Law Treaty" (document HM/CE/V/3). In this note, references to "the draft Treaty," as well as to any given "draft Article," "draft Rule," "paragraph" or "Note" are references to the draft Treaty, to the given draft Article, Rule or paragraph or to the given Note as contained in documents HM/CE/V/2 and HM/CE/V/3.

Examination of the Provisions of the Draft Treaty and of the Draft Regulations Under the Draft Treaty

Title of the Draft Treaty

The title of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"Draft Trademark Law Treaty"

¹ For notes on the first, second, third and fourth sessions, see *Industrial Property*, 1990, pp. 101 and 375, 1992, p. 244, and 1993, p. 89.

² A full list of the participants may be obtained on request from the International Bureau.

The portion of the report of the Committee of Experts concerning the discussion of the title of the draft Treaty reads as follows:

“One delegation was of the opinion that, since the scope of the draft Treaty related to the simplification of administrative procedures concerning marks, the previous title (‘Draft Treaty on the Simplification of Administrative Procedures Concerning Marks’) would be more appropriate.

The International Bureau said that the title of the Treaty should be decided upon at a later stage.”

Draft Article 1: Abbreviated Expressions

Article 1 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

“For the purposes of this Treaty, unless expressly stated otherwise:

(i) ‘Office’ means the agency entrusted by a Contracting Party with the registration of marks;

(ii) ‘registration’ means the registration of a mark by an Office;

(iii) ‘application’ means an application for registration;

(iv) references to a ‘person’ shall be construed as references to both a natural person and a legal entity;

(v) ‘holder’ means the person whom the register of marks shows as the holder of the registration;

(vi) ‘register of marks’ means the collection of data maintained by an Office, which includes the contents of all registrations and all data recorded in respect of all registrations, irrespective of the medium in which such data are stored;

(vii) ‘Paris Convention’ means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended;

(viii) ‘Nice Classification’ means the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, signed at Nice on June 15, 1957, as revised and amended;

(ix) ‘Contracting Party’ means any State or intergovernmental organization party to this Treaty;

(x) references to an ‘instrument of ratification’ shall be construed as including references to instruments of acceptance and approval;

(xi) ‘Assembly’ means the Assembly of the Contracting Parties that is referred to in Article 17;

(xii) ‘Union’ means the Union referred to in Article 16;

(xiii) ‘Organization’ means the World Intellectual Property Organization;

(xiv) ‘Director General’ means the Director General of the Organization;

(xv) ‘Regulations’ means the Regulations under this Treaty that are referred to in Article 19.”

The portion of the report of the Committee of Experts concerning the discussion of draft Article 1 reads as follows:

“This Article was approved as proposed.”

Draft Rule 1: Abbreviated Expressions

Rule 1 of the draft Regulations as submitted by the International Bureau to the Committee of Experts read as follows:

“(1) [‘Treaty’; ‘Article’] (a) In these Regulations, the word ‘Treaty’ means the Trademark Law Treaty.

(b) In these Regulations, the word ‘Article’ refers to the specified Article of the Treaty.

(2) [Abbreviated Expressions Defined in the Treaty] The abbreviated expressions defined in Article 1 for the purposes of the Treaty shall have the same meaning for the purposes of the Regulations.”

The portion of the report of the Committee of Experts concerning the discussion of draft Rule 1 reads as follows:

“This Rule was approved as proposed.”

Draft Article 2: Marks to Which the Treaty Applies

Article 2 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

“(1) [Nature of Marks] (a) This Treaty shall apply to marks consisting of visible signs, provided that only those Contracting Parties which accept for registration three-dimensional marks shall be obliged to apply this Treaty to such marks.

(b) This Treaty shall not apply to hologram marks and to marks not consisting of visible signs, in particular, sound marks and olfactory marks.

(2) [Kinds of Marks] (a) This Treaty shall apply to marks relating to goods (trademarks) or services (service marks) or both goods and services.

(b) *This Treaty shall not apply to collective marks, certification marks and guarantee marks.*

(c) *Any Contracting Party may declare in its instrument of ratification of or accession to this Treaty that the provisions of Articles 1 to 15 shall not apply to associated marks or defensive marks or both associated marks and defensive marks."*

The portion of the report of the Committee of Experts concerning the discussions of draft Article 2 reads as follows:

"Paragraph (1)(a). This provision was approved as proposed. In response to a remark made in connection with three-dimensional marks and Article 6*quinquies* of the Paris Convention, the Director General stated, and the Committee of Experts agreed, that nothing in the Treaty affected an obligation under the Paris Convention.

Paragraph (1)(b). This provision was approved as proposed, it being understood that nothing prevented Contracting Parties which accepted the registration of hologram marks, sound marks or olfactory marks from applying, to the extent possible, the provisions of the Treaty to such marks.

Paragraph (2)(a). This provision was approved as proposed. In connection with that provision, one delegation, referring to Note 2.03, suggested that the Treaty should expressly state that Contracting Parties were obliged to register service marks and that, consequently, a country could only accede to the Treaty if it registered service marks.

Paragraphs 2(b) and 2(c). These provisions were approved as proposed."

Draft Article 3: Application

Article 3 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Indications or Elements Contained in or Accompanying an Application; Fee] (a) Any Contracting Party may require that an application contain some or all of the following indications or elements:

(i) an express or implicit indication that the registration of a mark is sought;

(ii) the name and address of the applicant;

(iii) the name of the State of which the applicant is a national, the name of the State in which the applicant has his domicile and the name of the State in which the applicant has a real and effective industrial or commercial establishment;

(iv) where the applicant is a legal entity, the nature of that legal entity and the State, or the

territorial unit within a State, under the law of which the said legal entity has been incorporated;

(v) the name and address of the representative, if any, of the applicant;

(vi) where the applicant wishes to take advantage of the priority of an earlier application, a declaration claiming the priority of that earlier application, together with an indication

– of the name of the country with whose national Office the earlier application was filed, or, where the earlier application was filed with a regional office, the name of that Office,

– of the date on which the earlier application was filed and

– where available, the application number of the earlier application;

(vii) where the applicant wishes to take advantage of the temporary protection provided for in Article 11 of the Paris Convention, a declaration claiming that protection, together with the indications necessary to prove the applicability of the said Article of the Paris Convention;

(viii) where the applicant wishes that the mark be registered and published in standard characters, a statement to that effect;

(ix) where the applicant does not wish to claim color as a distinctive feature of the mark, one reproduction of the mark in black and white;

(x) where the applicant wishes to claim color as a distinctive feature of the mark, a statement to that effect as well as the name or names of the color or colors claimed and an indication, in respect of each color, of the principal parts of the mark which are in that color, together with, as required by the law of the Contracting Party, one reproduction of the mark in black and white and a certain number of reproductions of the mark in color, which number may not exceed four;

(xi) where the mark is a three-dimensional mark, a statement to that effect;

(xii) a transliteration or translation of the mark or of some parts of the mark, as prescribed in the Regulations;

(xiii) the names of the goods and/or services for which the registration is sought, grouped according to the classes of the Nice Classification and preferably using the terms of the Alphabetical List of Goods and Services established in respect of the said Classification, together with the number of the class of the said Classification to which each group of goods or services belongs;

(xiv) a signature by, or other self-identification of, the person specified in paragraph (4) and in the form specified in Article 7;

(xv) a declaration of intention to use the mark, as required by the law of the Contracting Party.

(b) *The applicant may file, instead of or in addition to the declaration of intention to use the mark referred to in subparagraph (a)(xv), a declaration of actual use of the mark and evidence to that effect, as required by the law of the Contracting Party.*

(c) *Where the applicant has neither a domicile nor a real and effective industrial or commercial establishment on the territory of the Contracting Party with whose Office his application is filed, that Contracting Party may require that the application contain, or be accompanied by a communication containing, the appointment of a representative whose permanent address is on its territory or may require that the applicant indicate an address for service on that territory.*

(d) *Any Contracting Party may require that, in respect of the application, a fee be paid to the Office.*

(2) [Presentation] *As regards the requirements concerning the presentation of the application, no Contracting Party shall refuse the application,*

(i) *where the application is presented in writing on paper, if it is presented, subject to paragraph (3), on the application form provided for in the Regulations,*

(ii) *in case the Contracting Party allows the sending of communications to its Office by telecopier, if the paper copy resulting from such transmittal corresponds, subject to paragraph (3), to the application form referred to in item (i),*

(iii) *in case the Contracting Party allows the sending of communications to its Office by electronic means, if the communication is effected in the manner prescribed in the Regulations.*

(3) [Language] *Any Contracting Party may require that the application be in the official language, or in one of the official languages, of its Office.*

(4) [Signature] (a) *Any Contracting Party may require that the application be signed by the applicant or, at the option of the applicant, by his representative.*

(b) *Where a Contracting Party requires that the application be signed, the application may, even where the appointment of the representative of the applicant is not made in the application itself, be signed by the representative of the applicant, provided that such Contracting Party may require that a document appointing the representative, signed by the applicant himself, be filed within the time limit fixed by the law of the Contracting Party, subject to the minimum time limit prescribed in the Regulations.*

(c) *Notwithstanding subparagraphs (a) and (b), any Contracting Party may require that the declarations referred to in paragraph (1)(a)(xv)*

and (b) be signed by the applicant himself even if he has a representative.

(5) [Single Application for Goods and/or Services in Several Classes] *One and the same application may relate to several goods and/or services, irrespective of whether they belong to one class or to several classes of the Nice Classification.*

(6) [Actual Use] *Any Contracting Party may require that, where a declaration of intention to use has been filed under paragraph (1)(a)(xv), the applicant furnish to its Office within a time limit fixed in its law, subject to the minimum time limit prescribed in the Regulations, evidence of the actual use of the mark, as required by the said law, except where the applicant claims the application of Article 6quinquies of the Paris Convention.*

(7) [Prohibition of Other Requirements] *No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (4) and (6) be complied with in respect of the application. In particular, the following may not be required in respect of the application throughout its pendency:*

(i) *the furnishing of any certificate of, or extract from, a register of commerce;*

(ii) *an indication of the applicant's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;*

(iii) *an indication of the applicant's carrying on of an activity corresponding to the goods and/or services listed in the application, as well as the furnishing of evidence to that effect;*

(iv) *the furnishing of evidence to the effect that the mark has been registered in the register of marks of another Contracting Party, except where the applicant claims the application of Article 6quinquies of the Paris Convention.*

(8) [Evidence] *Any Contracting Party may require that evidence be furnished to its Office in the course of the examination of the application where that Office may reasonably doubt the veracity of any indication or element contained in the application."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 3 reads as follows:

"Paragraph (1)(a), introductory phrase. This phrase was approved as proposed. It was explained that, in view of paragraph (7), the list of the indications or elements that a Contracting Party may require under subparagraph (a) was exhaustive.

Item (i). It was agreed that this item should be amended to read: 'a request for registration.'

Items (ii) to (v). These items were approved as proposed.

Item (vi). This item was approved, subject to the replacement, in the first indent, third line, of the words 'with a regional office' by the words 'with an office other than a national office.'

Item (vii). It was agreed to amend this provision in order to also cover other kinds of exhibition than the exhibitions referred to in Article 11 of the Paris Convention, where the national law allowed the obtaining of temporary protection in connection with the former kinds of exhibition.

Item (viii). This item was approved as proposed.

Items (ix) and (x). It was agreed that the question of the number of reproductions of the mark which may be required by a Contracting Party would be dealt with in the Regulations. These items were otherwise approved as proposed, it being understood that no Office was obliged to accept a reproduction the quality of which was insufficient.

Item (xi). This item was approved as proposed.

Item (xii). Several delegations and the representative of an observer organization suggested that the furnishing of a translation of the mark should be optional for the applicant. Other delegations considered, on the contrary, that this item should remain as proposed, since, where the mark consisted of a foreign language word, its translation was indispensable under their national laws in order to evaluate the distinctive character of the mark and a possible conflict with prior rights.

In conclusion, it was agreed that item (xii) should remain in the draft Treaty as proposed.

Item (xiii). In the Spanish text of this provision, second line, the word 'pretende' should be replaced by 'solicita.'

Otherwise, this item was approved as proposed, subject to the deletion in the third and fourth lines of the words 'and preferably using the terms of the Alphabetical List of Goods and Services established in respect of the said Classification' and subject to the drafting of a Note according to which the use of the terms of the Alphabetical List was desirable, it being understood that the Office of any Contracting Party could refuse any term (including a term contained in the Alphabetical List) which it considered to be too vague. It was agreed that the same changes should be made wherever the preparatory documents referred to the Alphabetical List.

Items (xiv) and (xv). These items were approved as proposed.

Paragraph (1)(b). This provision was approved as proposed.

Paragraph (1)(c). It was agreed that, in the case where the applicant had neither a domicile nor a real and effective industrial or commercial establishment on the territory of the Contracting Party concerned, the appointment of a representative or the indication of an address for service on that territory could not be required before the expiration of a time limit fixed by the law of the Contracting Party, subject to a minimum time limit which should be prescribed in the Regulations, and that that minimum time limit should be two months from the date of receipt of the application by the Office of the Contracting Party. It was also agreed that the Treaty should provide that any Contracting Party may require that the representative of the applicant—irrespective of whether the representative was required to be appointed in the above-mentioned case or was appointed by an applicant having a domicile or a real and effective industrial or commercial establishment on the territory of the Contracting Party—be a person who was admitted to practice before the Office of the Contracting Party.

The International Bureau was invited to draft corresponding provisions and to consider whether some of them should not be included in draft Article 11.

Paragraph (1)(d). This provision was approved as proposed.

Paragraph (2). This paragraph was approved, subject to the replacement, in items (ii) and (iii), of the introductory words 'in case' by the word 'where.' It was further clarified that, according to this provision, while a Contracting Party was obliged to accept an application presented on the application form contained in the Annex to the Regulations, an applicant was free to use any other Form acceptable to the Contracting Party.

Paragraph (3). This paragraph was approved as proposed. Two delegations were of the opinion that one could simplify the text of the draft Treaty by dealing with all questions covering languages in a separate Article.

Paragraph (4)(a). This provision was approved as proposed.

Paragraph (4)(b). This provision was approved, subject to the following changes: (i) in the French text, in the fourth line, the words 'du déposant à condition que' are to be replaced by the words 'du déposant; toutefois,' with the consequential replacement of 'puisse' by 'peut'; (ii) the words 'even where the appointment of the representative of the applicant is not made in the application itself' are to be omitted.

Paragraph (4)(c). In response to a question raised by the Delegation of the United States of America regarding the contents of the declaration

of *bona fide* intention to use the mark which had to be signed by the applicant under the draft Treaty, the Director General said that the expression 'declaration of intention to use the mark' was an abbreviated expression not reflecting all the contents of the declaration referred to in Article 3(1)(a)(xv) which clearly indicated that such a declaration should have the contents prescribed by the law of the Contracting Party.

Paragraph (5). This provision was approved as proposed. While one delegation considered that the adoption of a multiple class application system should be optional and that in any case the transitory period provided for in Article 24(1)(b) was too short, two delegations, although not opposing the principle of such a system, felt that they needed a certain period to evaluate all the consequences of the introduction of a multiple class system and to solve the problems caused by such introduction. Another delegation said that the introduction of a multiple class system in its country, which was in the interest of the applicants and not of the office, was expected to result in a fee increase. It was understood that the amount of the fee may be higher when the application covered more than one class of goods or services.

Paragraph (6). This paragraph was approved, subject to the deletion of the words 'except when the applicant claims the application of Article 6quinquies of the Paris Convention.' It was agreed that the absence of a reference to the said Article did not affect its application and interpretation.

Paragraph (7). This paragraph was approved as proposed.

It was agreed that a Note would be added in order to clarify that a Contracting Party may, where necessary, require during the examination of an application additional indications from the applicant concerning the validity of the mark, for example, a description of the mark or of specific elements thereof, or a statement of consent by a person whose name appeared in the mark.

Paragraph (8). This paragraph was approved as proposed, it being understood that it would be made clear in the Notes that any Contracting Party could require evidence as to the applicability of Article 3 of the Paris Convention."

Draft Rule 2: Details Concerning the Application

Rule 2 of the draft Regulations as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Name of Applicant] (a) For the purposes of Article 3(1)(a)(ii), where the applicant is a natural person, the name to be indicated is the family or principal name and the given or secondary name of the natural person; where the applicant is a legal entity, the name to be indicated is the full official designation of the legal entity.

(b) Any Contracting Party may require that, where the name of the applicant is indicated in script other than the script used by its Office, that name be transliterated into such a script.

(2) [Address of Applicant] (a) For the purposes of Article 3(1)(a)(ii), the address of the applicant shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, shall consist of all the relevant administrative units up to, and including, the house or building number, if any. The indication of the address shall, wherever available, also include a telephone and a facsimile machine number.

(b) The application may contain, for the purposes of correspondence, an additional address different from the address of the applicant indicated under subparagraph (a).

(c) Where an application is filed in the name of two or more applicants with different addresses, any Contracting Party may require that such application indicate an address for correspondence.

(3) [Name and Address of Representative] Paragraphs (1) and (2) shall apply *mutatis mutandis* to the name and address of the representative, if any.

(4) [Standard Characters] Where, pursuant to Article 3(1)(a)(viii), the application contains a statement to the effect that the applicant wishes that the mark be registered and published in standard characters, the Office shall register and publish that mark in the standard characters used by that Office.

(5) [Reproduction of a Three-Dimensional Mark] Where the applicant has made a statement to the effect that the mark is a three-dimensional mark, the reproduction of the mark shall consist of at least one two-dimensional graphic or photographic reproduction.

(6) [Transliteration of the Mark] For the purposes of Article 3(1)(a)(xii), where the mark consists of or contains matter in script other than the script used by the Office or numbers expressed in numerals other than numerals used by the Office, the latter may require a transliteration of such matter in the script and numerals used by it.

(7) [Translation of the Mark] *For the purposes of Article 3(1)(a)(xii), where the mark consists of or contains a word or words that may be translated into the official language, or one of the official languages, of the Office, the latter may require a translation of that word or those words into that language or one of those languages.*

(8) [Signature on Behalf of a Legal Entity] *For the purposes of Article 3(4)(a), where the applicant signs the application and that applicant is a legal entity, any Contracting Party may require that the signature be accompanied by the name of the natural person having signed on behalf of the legal entity.*

(9) [Time Limit for Filing the Document Appointing a Representative] *The time limit referred to in Article 3(4)(b) shall be counted from the date of receipt of the application by the Office of the Contracting Party concerned and shall not be less than one month where the applicant's address is on the territory of that Contracting Party and not less than two months where the applicant's address is outside the territory of that Contracting Party.*

(10) [Time Limit for Furnishing Evidence of Actual Use of the Mark] *The time limit referred to in Article 3(6) shall not be shorter than six months counted from the date of allowance of the application by the Office of the Contracting Party where that application was filed. That time limit shall be extendable, subject to the possible payment of fees, by periods of at least six months each, up to a total extension of at least two years and a half."*

The portion of the report of the Committee of Experts concerning the discussion of draft Rule 2 reads as follows:

"It was agreed that the wording of this Rule would be amended in order to make it clear that a Contracting Party could require, with respect to the matters covered by the said Rule, less than what was provided in the said Rule.

Paragraph (1)(a). This provision was approved as proposed, subject to possible redrafting in view of the agreement referred to in the preceding paragraph. In response to a question raised by one delegation, it was indicated that this provision did not intend to deal with the order in which the family or principal name and the given or secondary name should be given. It was further stated that an applicant was free to give all the elements which constituted his family or principal name as well as all his given or secondary names. It was finally confirmed that, since the singular included the plural, this provision was applicable

in the case of an application filed in the name of several applicants.

Paragraph (1)(b). This provision was approved as proposed.

Paragraph (2). This paragraph was approved, subject to possible redrafting in view of the agreement referred to above.

Paragraphs (3) and (4). These paragraphs were approved as proposed.

New paragraph. It was agreed that a new provision would be included in the draft Regulations along the following lines, to deal with the question of the number of reproductions of the mark to be furnished by the applicant: (i) where the applicant has made a statement to the effect that the mark should be registered and published in standard characters, a Contracting Party may not require more than one reproduction of the mark in black and white; (ii) where the applicant has not made such a statement, and does not wish to claim color as a distinctive feature of the mark, a Contracting Party may not require more than [three] reproductions of the mark in black and white; (iii) where the applicant wishes to claim color as a distinctive feature of the mark in accordance with Article (3)(1)(a)(x), a Contracting Party may not require more

- than four reproductions of the mark in color, in addition to one reproduction of the mark in black and white, where the mark is to be published in color,
- than [three] reproductions of the mark in black and white, where the mark is to be published in black and white.

New paragraph. It was suggested that consideration be given to the possible inclusion of a new provision in the draft Regulations concerning the size of the reproduction of the mark. The International Bureau noted that any Contracting Party would be obliged to accept the dimensions of a reproduction when the application form contained in Annex I to the draft Regulations was used.

Paragraph (5). It was agreed that this paragraph would be redrafted along the following lines: (i) where the applicant has made a statement to the effect that the mark is a three-dimensional mark, it is sufficient for the application to contain (in the required number of copies) a two-dimensional graphic or photographic reproduction; (ii) the reproduction furnished under item (i) may, at the option of the applicant, consist of one single view or of several different views of the mark; however, one delegation stated that the Office of its country would not accept more than one view of the mark; (iii) where a Contracting

Party considers that, in any given case, the reproduction furnished under item (i) does not sufficiently show the particulars of the three-dimensional mark, it may invite the applicant to furnish, within a reasonable time, up to six different views of the mark and/or a description by words of that mark; (iv) where a Contracting Party considers that, in any given case, the different views and/or the description referred to in (iii), above, still do not sufficiently show the particulars of the three-dimensional mark, it may invite the applicant to furnish, within a reasonable time, a specimen of the mark.

Furthermore, it was agreed that no Contracting Party should be obliged to accept specimens spontaneously furnished by the applicant. Finally, it was understood that the number of reproductions (consisting of one or several views of the mark) required to be furnished by the applicant would, in the case of a three-dimensional mark, be the same as in the case of a two-dimensional mark.

Paragraphs (6) and (7). These paragraphs were approved as proposed.

Paragraph (8). This paragraph was approved as proposed. It was confirmed that the question whether a person was lawfully authorized or empowered to sign on behalf of a legal entity was to be determined in accordance with the national law under which that entity was incorporated.

Paragraph (9). This paragraph was approved as proposed.

Paragraph (10). This paragraph was approved as proposed."

Draft Rule 3: Details Concerning Electronic Communication

Rule 3 of the draft Regulations as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Conditions] Where a Contracting Party allows an application to be presented by electronic means under Article 3(2)(iii), its Office may establish conditions, in accordance with paragraphs (2) and (3), in respect of the identification of the applicant, the holder or the representative.

(2) [Application] (a) Where an application is filed on-line with the Office of a Contracting Party, the applicant or his representative may be required to use an identification card and a password.

(b) Where an application is filed by using a floppy disk, the Office of a Contracting Party may

require that the applicant or his representative be identified by an identification number.

(3) [Changes; Corrections; Request for Renewal] Paragraph (2) shall apply, mutatis mutandis, to requests made under Articles 9, 10, 12 and 13."

The portion of the report of the Committee of Experts concerning the discussion of draft Rule 3 reads as follows:

"It was agreed that the contents of this Rule should be reserved until more experience had been gained with respect to electronic communications and, in particular, electronic filing of applications."

Draft Article 4: Filing Date

Article 4 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Absolute Requirements] Any Contracting Party shall accord as the filing date of an application the date on which the Office received the following indications or elements in the language required under Article 3(3):

(i) an express or implicit indication that the registration of a mark is sought;

(ii) indications allowing the identity of the applicant to be established;

(iii) indications sufficient to contact the applicant or his representative, if any;

(iv) a reproduction of the mark, whether in black and white or in color;

(v) a list of the goods and/or services for which the registration is sought;

(vi) where Article 3(1)(a)(xv) or (b) applies, the declaration referred to in paragraph (1)(a)(xv) or the declaration and evidence referred to in paragraph (1)(b), as required by the law of the Contracting Party, those declarations being, if so required by the said law, signed by the applicant even if he has a representative.

(2) [Permitted Additional Requirement] (a) A Contracting Party may provide that no filing date shall be accorded until the required fee is paid.

(b) A Contracting Party may apply the requirement referred to in subparagraph (a) only if it applied such requirement at the time of becoming party to this Treaty.

(3) [Corrections and Time Limits] The modalities of, and time limits for, corrections under paragraphs (1) and (2) shall be fixed in the Regulations.

(4) [Prohibition of Other Requirements] *In respect of the filing date, no requirement additional to or different from those provided for in paragraphs (1) and (2) may be imposed.*"

The portion of the report of the Committee of Experts concerning the discussion of draft Article 4 reads as follows:

"*Paragraph (1)*. In respect of the question whether all the indications and elements listed in items (i) to (v) had to be received by the Office of a Contracting Party in order for a filing date to be accorded, or whether that list should only constitute a maximum requirement—any Contracting Party having the possibility of according a filing date where some only of those indications or elements were received—the majority of the delegations and representatives expressed the view that the indications and elements listed in this paragraph should constitute a maximum requirement, and the International Bureau was invited to redraft Article 4 accordingly. It was also agreed to make it clear that all the indications and elements referred to in Article 4(1) could be required, for example, by replacing, in the third line of the introductory sentence of Article 4(1), the word 'or' by the word 'and.'

Items (i) to (iii). These items were approved as proposed.

Item (iv). It was agreed to replace the words 'whether in black and white or in color' by the words 'whose registration is sought.'

Item (v). This item was approved as proposed.

The Delegation of the United States of America indicated that, under the law of its country, where the application in the United States of America was based on a foreign registration, an additional filing date requirement had to be fulfilled, namely, a certified copy of the foreign registration had to accompany the application.

Several delegations and representatives of observer organizations considered that no other indication or element than those mentioned in paragraphs (1) and (2) should be allowed to be required for the according of a filing date. The Delegation of the United States of America stated in conclusion that it would reflect on the possible need for the list of permissible requirements under Article 4 to be expanded in order to take into account the requirements of its law.

Paragraph (2). This paragraph was approved as proposed, subject to the correction of the title of the provision in the French text which should read 'Condition supplémentaire autorisée.'

Paragraph (3). This paragraph was approved as proposed, subject to the replacement, in the

title and the second line of the French text, of the words 'Rectifications' and 'rectifications' by the words 'Corrections' and 'corrections.'

Paragraph (4). This paragraph was approved as proposed."

Draft Rule 4: Details Concerning the Filing Date Requirements

Rule 4 of the draft Regulations as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Procedure in Case of Non-Compliance with Requirements] *If the application does not, at the time of its receipt by the Office, comply with any of the requirements of Article 4(1) or, where applicable, the requirement of Article 4(2), the Office shall promptly invite the applicant to comply with such requirements within a time limit fixed in the invitation, which time limit shall be at least one month from the date of the invitation where the applicant's address is on the territory of the Contracting Party concerned and at least two months where the applicant's address is outside the territory of that Contracting Party. Compliance with the invitation may be subject to the payment of a special fee. Failure to send an invitation shall not affect the said requirements.*

(2) [Filing Date in Case of Correction] *If, within the time limit fixed in the invitation, the applicant complies with the invitation referred to in paragraph (1) and pays any required special fee, the filing date shall be the date on which the indication or elements referred to in Article 4(1) have been received by the Office or, where applicable, the required fee referred to in Article 4(2) has been paid to the Office. Otherwise, the application shall be treated as if it had not been filed.*

(3) [Date of Receipt] *Each Contracting Party shall be free to determine the circumstances in which the receipt of a document by or the payment of a fee to a branch or sub-office of an Office, a national Office on behalf of an intergovernmental organization having the power to effect regional registration of marks, or an official postal service, shall be deemed to constitute receipt of the document by or payment of the fee to the Office concerned.*

(4) [Use of Telecopier] *Where a Contracting Party allows the filing of an application by telecopier, and an application filed by telecopier complies with all the requirements under Article 4(1) and, where applicable, Article 4(2), the filing date of the application shall be the date of its receipt by telecopier by the Office of that Contracting Party, provided that the original of*

such application reaches that Office within a period which shall not be less than [one month] from the day on which the communication by telecopier was received by the said Office.”

The portion of the report of the Committee of Experts concerning the discussion of draft Rule 4 reads as follows:

“The International Bureau was invited to reconsider the wording of Rule 4 to adapt it to the redraft of Article 4 (see the discussion concerning draft Article 4(i), above).

Paragraph (2). It was indicated that the expression ‘shall be treated as if it had not been filed’ in the last sentence should be understood within the context of the applicable law of the Contracting Party concerned so that, for example, that law could provide that the application was to be considered withdrawn. Furthermore, it was agreed that the last sentence of paragraph (2) did not oblige any Contracting Party to refund the fees paid in connection with the filing of the application.

It was noted that, in the French text of the title of paragraph (2), the word ‘rectification’ should be replaced by the word ‘correction.’

Paragraph (4). It was agreed that the brackets before and after ‘one month’ would be deleted and that the last part of paragraph (4) would be amended in order to make it clear that the original of the application may be received within the one-month period.”

Draft Article 5: Single Registration for Goods and/or Services in Several Classes

Article 5 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

“Where goods and/or services belonging to several classes of the Nice Classification have been included in one and the same application, such an application shall result in one and the same registration.”

The portion of the report of the Committee of Experts concerning the discussion of draft Article 5 reads as follows:

“This Article was approved as proposed. One delegation, which had expressed, with respect to draft Article 3(5), the wish that that provision be optional, expressed a similar wish with respect to draft Article 5. Furthermore, it was understood that registrations resulting from applications filed under the single class system pursuant to Article 24 could be effected under the same system.”

Draft Article 6: Division of Application

Article 6 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

“Any application referring to several goods and/or services (the initial application) may be divided by the applicant into two or more applications (the divisional applications) by distributing among the latter the goods and/or services referred to in the initial application. The divisional applications shall preserve the filing date of the initial application and the benefit of the right of priority, if any.”

The portion of the report of the Committee of Experts concerning the discussion of draft Article 6 reads as follows:

“The great majority of delegations and representatives of observer organizations expressed support for this Article. A few delegations expressed reservations on the mandatory nature of this provision and considered that, if it was not made optional for Contracting Parties, a transitional period should at least be provided for under Article 24. Some of those latter delegations wondered whether the provision allowing the filing of divisional applications should not be limited to the cases where the initial application had been the subject, in respect of some of the goods and/or services covered, of refusal or of opposition, it being understood that each Contracting Party would be free, under its national law, to allow the filing of divisional applications also in other cases.

In response to questions raised by several delegations, it was recalled that this provision did not deal with the division of a registration, which Contracting Parties were free to allow.

It was agreed that, in the next draft, an explanatory Note would be added which would make it clear that the division of an application may relate to some of the goods or services falling within one class and referred to in the initial application, the same principle also applying where the initial application covered several classes.

It was finally agreed that this provision should remain as proposed.”

Draft Rule 5: Division of Application

Rule 5 of the draft Regulations as submitted by the International Bureau to the Committee of Experts read as follows:

“For the purposes of Article 6, any Contracting Party shall be free to fix the modalities

of division of an application, including the period during which the application may be divided.”

The portion of the report of the Committee of Experts concerning the discussion of draft Rule 5 reads as follows:

“It was agreed that the words ‘, including the period during which the application may be divided’ should be deleted so that, in accordance with the wording of Article 6, each Contracting Party would be obliged to allow the filing of divisional applications during the whole pendency of the initial application. It was understood that a Contracting Party could consider the initial application to be no longer pending during those days which were between the decision to grant the registration and the actual registration.”

Draft Article 7: Signature and Other Means of Self-Identification

Article 7 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

“(1) [Communication on Paper] Where a communication under this Treaty or the Regulations is on paper and a signature is required, any Contracting Party

(i) shall, subject to item (iii), accept a handwritten signature,

(ii) shall be free to allow the use of other forms of signature, such as a printed or stamped signature, or the use of a seal, instead of a handwritten signature,

(iii) may, where the applicant, holder or representative is its national and has his address in its territory, require that a seal be used instead of a handwritten signature.

(2) [Communication by Telecopier] Where a Contracting Party allows the sending of communications to its Office by telecopier, it shall consider the communication signed if, on the printout produced by the telecopier, the reproduction of the signature or seal appears, provided that such a Contracting Party may require that the paper whose reproduction was transmitted by telecopier be filed with its Office within a certain period, subject to the minimum period prescribed in the Regulations.

(3) [Communication by Electronic Means] Where a Contracting Party allows communication to its Office by electronic means rather than on paper or by telecopier, it shall consider the communication signed if the latter identifies the sender of the communication by electronic means as prescribed by it.

(4) [Prohibition of Requirement of Certification] No Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature or other means of self-identification referred to in the preceding paragraphs, except, if the law of the Contracting Party so provides, where the signature appears on the request or any document referred to in Article 10 or concerns the surrender of a registration.”

The portion of the report of the Committee of Experts concerning the discussion of draft Article 7 reads as follows:

“Paragraph (1), introductory phrase. This phrase was approved as proposed.

Item (i). This item was approved as proposed.

Items (ii) and (iii). The Delegation of Japan explained that, since a seal was composed, in its country, of very complicated patterns of figurative elements and characters, the law of its country required that, when a seal was used, the name of the person to whom the seal referred should be indicated in block letters.

It was pointed out that a provision could be added allowing a Contracting Party to require that an indication of the name of the signatory accompany the signature or seal, as already provided for in the Forms annexed to the Regulations, it being understood that such indication could be in type-script (not necessarily in block letters).

Paragraph (2). This paragraph was approved as proposed.

Paragraph (3). This paragraph was approved as proposed.

Paragraph (4). It was agreed that the words ‘appears on the request or any document referred to in Article 10 or’ should be deleted (see the discussion concerning draft Article 10(1)(b), (c) and (d), below).”

Draft Rule 6: Signature and Other Means of Self-Identification

Rule 6 of the draft Regulations as submitted by the International Bureau to the Committee of Experts read as follows:

“The period referred to in Article 7(2) shall be fixed by the law of the Contracting Party concerned. It shall not be less than [one month] from the date of the transmittal of a communication by telecopier.”

The portion of the report of the Committee of Experts concerning the discussion of draft Rule 6 reads as follows:

“This Rule was approved, subject to the deletion of the square brackets before and after the words ‘one month.’”

Draft Article 8: Classification of Goods and/or Services

Article 8 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

“Each registration and each publication effected by an Office which concerns an application or registration and which indicates goods and/or services shall indicate those goods and/or services by their names, grouped according to the classes of the Nice Classification, together with the number of the class of the said Classification to which each group of goods or services belongs.”

The portion of the report of the Committee of Experts concerning the discussion of draft Article 8 reads as follows:

“This Article was approved, subject to the possible addition of a new paragraph which, in essence, would incorporate the substance of Note 8.02.”

Draft Article 9: Changes in Names or Addresses

Article 9 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

“(1) [Changes in the Name or Address of the Holder] (a) Where there is no change in the person of the holder but there is a change in his name or address, each Contracting Party shall accept that the request for the recordal of the change by the Office in its register of marks be made in a communication signed by the holder or his representative and indicating the registration number of the registration concerned and the change to be recorded. As regards the requirements concerning the presentation of the request, no Contracting Party shall refuse the request,

(i) where the request is presented in writing on paper, if it is presented, subject to subparagraph (b), on the request form provided for in the Regulations,

(ii) in case the Contracting Party allows the sending of communications to its Office by telecopier, if the paper copy resulting from such transmittal corresponds, subject to subparagraph (b), to the request form referred to in item (i),

(iii) in case the Contracting Party allows the sending of communications to its Office by elec-

tronic means, if the communication is effected in the manner prescribed in the Regulations.

(b) Any Contracting Party may require that the request be in the official language, or in one of the official languages, of its Office.

(c) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(d) A single request shall be sufficient even where the change relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request.

(2) [Change in the Name or Address of the Applicant] Paragraph (1) shall apply, mutatis mutandis, where the change concerns an application or applications or both an application or applications and a registration or registrations, provided that, where the application number of an application concerned is not yet known, the request otherwise identifies that application as prescribed in the Regulations.

(3) [Change in the Name or Address of the Representative] Paragraph (1) shall apply, mutatis mutandis, to any change in the name or address of a representative.

(4) [Prohibition of Other Requirements] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) be complied with in respect of the request referred to in this Article. In particular, the furnishing of any certificate concerning the change may not be required.

(5) [Evidence] Any Contracting Party may require that evidence be furnished to its Office where that Office may reasonably doubt the veracity of any indication contained in the request.”

The portion of the report of the Committee of Experts concerning the discussion of draft Article 9 reads as follows:

“It was confirmed that this Article dealt with changes in names, changes in addresses and changes in both names and addresses. In the latter case, if a Contracting Party had doubts as to whether the change was a mere change of name rather than a change in ownership, paragraph (5) would apply.

Paragraph (1)(a). The Delegation of Spain stated that the national law of its country required the furnishing of a certified copy of the recordal of the change in the register of companies as a condition for the recordal of the change in the register of marks.

Paragraph (1)(a) was approved as proposed, subject to the replacement, in the English text, of the word 'or' by the expression 'and/or' in the second line.

Paragraphs (1)(b) to (1)(d). These provisions were approved as proposed.

Paragraph (2). This paragraph was approved as proposed.

One delegation considered that, while not opposing in principle the fact that a single request for the recordal of a change of name or address could apply to both applications and registrations, it needed a certain time to study in depth the practical consequences of such a system. In that respect, it suggested that a transitional period be allowed under Article 24.

Paragraph (3). This paragraph was approved as proposed.

Paragraph (4). This paragraph was approved as proposed.

One delegation expressed, both in respect of this provision and of the similar provision in Article 10(4), its difficulty in accepting at this stage the prohibition of other requirements in view of the repercussion of those provisions on other laws of its country, and since an over-simplified procedure could lead to legal uncertainty. However, since those provisions were among the most important of the draft Treaty, it stated that its country would continue to study carefully how to overcome its difficulty.

Paragraph (5). This paragraph was approved as proposed."

Draft Rule 7: Manner of Identification of an Application Without Its Application Number

Rule 7 of the draft Regulations as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Manner of Identification] *For the purposes of Articles 9 to 12, where the application number of an application is not known, the identification of that application shall be made by a description by words of the mark concerned or by indicating the date on which, to the best knowledge of the applicant, the application was received by the Office.*

(2) [Manner of Description] *The description referred to in paragraph (1) may, where appropriate, consist in the naming of the mark itself and/or an identification of the figurative element or elements which form the mark or, at the option of the requesting party, be replaced by a reproduction of the mark or a copy of the whole application."*

The portion of the report of the Committee of Experts concerning the discussion of draft Rule 7 reads as follows:

"It was agreed that Rule 7 would be redrafted along the following lines: (i) the date on which, to the best knowledge of the applicant, the application was received by the Office would have to be indicated in all cases; (ii) the mark would have to be identified, where necessary, by a reproduction of the mark; (iii) a description of the mark by words could not be requested; (iv) where applications for the same mark are filed on the same day, the lists of goods and/or services would have to be reproduced."

Draft Article 10: Change in Ownership

Article 10 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Change in the Ownership of the Registration] (a) *Where there is a change in the person of the holder, each Contracting Party shall accept that the request for the recordal of the change by the Office in its register of marks be made in a communication signed by the holder or his representative or by the person who acquired the ownership (the 'new owner') or his representative and indicating the registration number of the registration concerned and the change to be recorded. As regards the requirements concerning the presentation of the request, no Contracting Party shall refuse the request,*

(i) *where the request is presented in writing on paper, if it is presented, subject to paragraph (2)(a), on the request form provided for in the Regulations,*

(ii) *in case the Contracting Party allows the sending of communications to its Office by telecopier, if the paper copy resulting from such transmittal corresponds, subject to paragraph (2)(a), to the request form referred to in item (i),*

(iii) *in case the Contracting Party allows the sending of communications to its Office by electronic means, if the communication is effected in the manner prescribed in the Regulations.*

(b) *Where the change in ownership results from a contract, any Contracting Party may require that the request be accompanied, at the option of the requesting party, by one of the following:*

(i) *a copy of the contract;*

(ii) *an extract of the contract showing the change in ownership;*

(iii) *a certificate of transfer drawn up in the form and with the content as prescribed in the*

Regulations and signed by both the holder and the new owner;

(iv) *a transfer document drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner.*

(c) *Where the change in ownership results from a merger, any Contracting Party may require that the request be accompanied by a copy of a document originating from the competent authority, for example, a copy of an extract from a register of commerce, evidencing the merger.*

(d) *Where the change in ownership does not result from a contract or a merger but from another ground, for example, from operation of law or a court decision, any Contracting Party may require that the request be accompanied by the copy of a document evidencing the change.*

(e) *Any Contracting Party may require that the request show:*

(i) *the name and address of the holder;*

(ii) *the name and address of the new owner;*

(iii) *the name of the State of which the new owner is a national, the name of the State in which the new owner has his domicile and the name of a State in which the new owner has a real and effective industrial or commercial establishment;*

(iv) *where the new owner is a legal entity, the nature of that legal entity and the State, or the territorial unit within a State, under the law of which the said legal entity has been incorporated.*

(f) *Where the new owner has neither a domicile nor a real and effective industrial or commercial establishment on the territory of the Contracting Party to whose Office the request is presented, that Contracting Party may require that the request contain, or be accompanied by a document containing, the appointment of a representative whose permanent address is on its territory or may require that the new owner indicate an address for service on that territory.*

(g) *Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.*

(h) *A single request shall be sufficient even where the change relates to more than one registration, provided that the holder and the new owner are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.*

(2) [Language; Translation] (a) *Any Contracting Party may require that the request, the certificate of transfer or the transfer document referred to in paragraph (1) be in the official language, or in one of the official languages, of its Office.*

(b) *Any Contracting Party may require that, if the documents referred to in paragraph (1)(b)(i) and (ii), (c) and (d) are not in the official language, or in one of the official languages, of its Office, the request be accompanied by a translation or a certified translation of the required document in the official language, or in one of the official languages, of its Office.*

(3) [Change in the Ownership of the Application] *Paragraphs (1) and (2) shall apply, mutatis mutandis, where the change in ownership concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of an application concerned is not yet known, the request otherwise identifies that application as prescribed in the Regulations.*

(4) [Prohibition of Other Requirements] *No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) and in Article 7(4) be complied with in respect of the request referred to in this Article. In particular, the following may not be required:*

(i) *subject to paragraph (1)(c), the furnishing of any certificate of, or extract from, a register of commerce;*

(ii) *an indication of the new owner's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;*

(iii) *an indication of the new owner's carrying on of an activity corresponding to the goods and/or services listed in the registration or, where the change concerns only part of the goods and/or services listed in the holder's registration, in the new owner's part of the registration, as well as the furnishing of evidence to either effect;*

(iv) *an indication that the holder transferred, entirely or in part, his business or the relevant goodwill to the new owner, as well as the furnishing of evidence to either effect.*

(5) [Evidence] *Any Contracting Party may require that evidence, or further evidence where paragraph (1)(c) or (d) applies, be furnished to its Office where that Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the present Article."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 10 reads as follows:

"Paragraph (1)(a). This provision was approved as proposed.

Paragraph (1)(b), (c) and (d). After a thorough discussion on the possibility for countries of accepting provisions departing from some of the requirements prescribed in their law with respect,

inter alia, to certification and taxation, an agreement was reached on a compromise solution along the following lines:

(a) No Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature or other means of self-identification appearing on the request or any document relating to the change in ownership. (This prohibition will result from the new drafting of Article 7(4) (see the discussion concerning draft Article 7(4) above).)

(b) Where the change in ownership results from a contract and the request for recordal of that change is accompanied by a certificate of transfer or a transfer document, no Contracting Party may require the attestation, notarization, legalization or other certification of that certificate or document or of the request for recordal of the change in ownership (no certification of any signature may be required, as stated in (a), above).

(c) Where the change in ownership results from a contract and the request for recordal of that change is accompanied by a copy of the contract or by an extract of that contract showing the change in ownership, the Office having received the request for recordal may require that such copy or extract be certified as being in conformity with the original by a notary public or any other competent public authority.

(d) Where the change in ownership results from a merger or from a ground other than a contract or a merger, the Office having received the request for recordal may require that the copy of the document which is furnished by the requesting party in support of the request be issued by the authority which has issued that document or be certified as being in conformity with the original by a notary public or any other competent public authority.

One observer delegation stated that the compromise solution reached was, in its view, without prejudice to the requirements of the national law governing transfer of property.

It was understood that, if a person intended to request the recordal of a change in ownership in a Contracting Party by means other than those covered by Article 10 (as proposed to be amended) but admitted by that Contracting Party, that Contracting Party could require that the request comply with any requirement applicable under its law to such means.

Paragraph (1)(e). This provision was approved as proposed. In reply to a question raised by one delegation as to whether, where Article 6*quinquies* of the Paris Convention had been invoked for the registration of the mark, it was allowed to require that a request for the recordal of a change

in ownership of that registration be accompanied by a new certificate of the Office of the country of origin showing that the registration in that country was still valid, it was noted that such requirement was not allowed but that the validity of the registration in the Contracting Party where the change was requested to be recorded could be challenged on the ground that the registration in the country of origin was no longer valid.

Paragraph (1)(f). This provision was approved, subject to the same changes as those that would be made to Article 3(1)(c) (see the discussion concerning draft Article 3(1)(c) above).

Paragraph (1)(g) and (h). These provisions were approved as proposed.

Paragraph (2). This paragraph was approved as proposed.

Paragraph (3). This paragraph was approved as proposed. One delegation reiterated the concerns it had expressed with respect to Article 9(2) (see the discussion concerning draft Article 9(2), above) and suggested that a transitional period be allowed under Article 24.

Paragraph (4), introductory phrase. This phrase was approved, subject to the deletion of the words 'and in Article 7(4)' (see the discussion concerning draft Article 7(4) and paragraph (1)(b), (c) and (d), above).

Items (i) to (iii). These items were approved as proposed.

Item (iv). This item was approved as proposed.

In response to a question raised by one delegation, it was indicated that, in the next draft, the Notes would make it clear that this provision did not concern the question as to whether the transfer was valid in the absence of a transfer of the relevant business or goodwill, but was restricted to requirements which were not allowed in respect of the request for recordal of a change in ownership. Another delegation reserved its position on item (iv).

It was agreed that making the admissibility of the request dependent on any advertisement of the change in ownership in a newspaper would be a requirement contrary to paragraph (4).

Paragraph (5). This paragraph was approved as proposed."

Draft Rule 8: Details Concerning Change in Ownership

Rule 8 of the draft Regulations as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Co-Holders; Co-Owners] *Where, in accordance with Article 10(1)(b)(iii) and (iv), a*

request for the recordal of a change in ownership is accompanied by a certificate of transfer or a transfer document, and where the registration which is the subject of that change in ownership is in the name of several holders or where the change in ownership benefits to several new owners, each co-holder or co-owner, as the case may be, shall sign the certificate of transfer or the transfer document. In respect of co-holders, this provision shall be applicable even where the change in ownership concerns only the share or shares of one or some of the co-holders.

(2) [Transfer of Applications] *Paragraph (1) shall apply, mutatis mutandis, where the change in ownership concerns an application or applications, or both applications and registrations.*

(3) [Transliteration; Signature] *Rule 2(1)(b) shall apply, mutatis mutandis, to the name of any new owner and Rule 2(8) shall apply, mutatis mutandis, where any new owner is a legal entity."*

The portion of the report of the Committee of Experts concerning the discussion of draft Rule 8 reads as follows:

"Paragraph (1). This paragraph was approved, subject to adding, in the sixth line, the words 'any Contracting Party may require that' before the word 'each' and to deleting, in the same line, the word 'shall' and to making similar amendments in the second sentence. Thus, a Contracting Party could, for example, be satisfied if the request for the recordal of the change in ownership was signed by a representative of the co-owners if the latter had appointed him to represent them.

Paragraph (2). This paragraph was approved, subject to the replacement of the title 'Transfer of Applications' by 'Change in the Ownership of the Application.'

Paragraph (3). This paragraph was approved as proposed."

Draft Article 11: Representation

Article 11 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Appointment for One Application or Registration] (a) Where a representative is appointed in respect of a certain application, any Contracting Party may require that the appointment be made in the application itself, or in a separate communication signed by the applicant and submitted to its Office, and that the appointment indicate the application number of the application or, where the application number is not yet

known, otherwise identify that application as prescribed in the Regulations.

(b) Where a representative is appointed in respect of a certain registration, any Contracting Party may require that the appointment be made in a communication signed by the holder, and that the appointment indicate the registration number of the registration.

(2) [Appointment for Several Applications and/or Registrations] *(a) Where a representative is appointed in respect of more than one application, and/or in respect of more than one registration, of the same person, the appointment may be made in a single communication, provided that, subject to subparagraph (b), the said communication indicates the application numbers of all applications and/or the registration numbers of all registrations concerned or, to the extent that the application number of an application is not yet known, otherwise identifies that application as prescribed in the Regulations.*

(b) Where a representative is appointed in respect of all existing and future applications and/or registrations of the same person, the communication in which the appointment is made ('general power of attorney') need not identify any application and/or registration.

(3) [Standard Forms] *The Regulations shall provide for standard forms for the appointment of representatives under paragraphs (1) and (2).*

(4) [Language] *Any Contracting Party may require that the appointment of a representative be in the official language, or in one of the official languages, of its Office.*

(5) [Sub-Representatives] *A representative appointed under paragraphs (1) or (2) may, unless otherwise indicated in the document appointing him, appoint one or more sub-representatives to represent the applicant or the holder as their representatives.*

(6) [Termination of Appointment by Appointing a New Representative] *Upon receipt by the Office of a communication appointing a representative, the appointment of any previous representative is considered as terminated, unless otherwise indicated in the said communication.*

(7) [Termination of Appointment for Several Applications and/or Registrations] *Where, in respect of several applications and/or registrations of the same person, the representative is the same, the appointment of that representative may be terminated in one and the same communication, signed by that person, provided that, except in the case of a general power of attorney, the said communication indicates the application numbers of the applications and/or the registra-*

tion numbers of the registrations concerned or, where the application number of an application is not yet known, otherwise identifies that application as prescribed in the Regulations. Paragraph (6) shall apply mutatis mutandis.

(8) [Termination of Appointment of Sub-Representatives] (a) The termination of an appointment under paragraphs (6) and (7) shall entail the termination of the appointment of any sub-representative appointed under paragraph (5).

(b) Any appointment of a sub-representative may be directly terminated by the applicant or holder concerned.

(9) [Limitation of Appointment] (a) The applicant or the holder may limit the powers of a representative to certain acts.

(b) Where a limitation is made subsequently to the appointment, it shall be made in a communication signed by the applicant or the holder; it shall have effect upon receipt by the Office of that communication.

(c) Paragraph (7) shall apply mutatis mutandis.

(d) Any limitation of the powers of a representative shall be applicable to any sub-representatives appointed by that representative."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 11 reads as follows:

"Paragraph (1)(a) and (b). It was agreed that this paragraph, as well as other provisions of this Article, should be redrafted along the lines of Articles 9, 10 and 12. According to that new approach, any Contracting Party would be obliged to accept the appointment of a representative if presented on one of the Forms provided for in the Regulations but no Contracting Party would be obliged to accept an appointment made in the application itself. It would also be made clear in the Notes that any Contracting Party would be free to allow that the appointment be made in the application itself without requiring a separate document or to provide that no formal appointment is required in certain cases (for example, with respect to the so-called 'mandataires agréés'). It was agreed that the application form would not provide for the possibility that the appointment be made in the application itself.

Paragraph (2)(a). This provision was approved as proposed.

Paragraph (2)(b). Two delegations were of the opinion that the acceptance of appointments of representatives by way of a general power of attorney should be optional for Contracting Parties.

One representative of an observer organization considered that it was important that a general

power of attorney could cover both applications and registrations filed and registered in a Contracting Party either before or after the entry into force of the Treaty with respect to that Contracting Party. The representative added that, in order to solve some of the practical difficulties of certain Offices, it could be provided that, as regards applications filed and registrations effected before the entry into force of the Treaty, the Contracting Party concerned could require that the applicant or holder furnish with the general power of attorney a list containing the numbers of such applications and registrations. This view was supported by several delegations and other representatives of observer organizations.

One delegation expressed the opinion that the furnishing of a list containing the numbers of the applications filed and of the registrations effected before the entry into force of the Treaty in its country would not be sufficient to solve all their problems if general powers of attorney were to be accepted as soon as the Treaty entered into force.

Following that discussion, it was agreed that the next draft would provide for the possibility for each Contracting Party to require, in connection with a general power of attorney, a list containing the numbers of the applications filed and registrations effected prior to the entry into force of the Treaty with respect to the Contracting Party concerned. It was also agreed to examine whether Article 24 should provide that a Contracting Party may apply the provisions on general powers of attorney only after a transitional period.

The representative of an observer organization suggested that it should be possible to appoint several representatives in a general power of attorney and that where, in a Contracting Party, the appointment of a representative was required with respect to an application or registration, the applicant or holder would indicate one of the representatives listed in the general power of attorney without having to furnish any separate documentation. It was indicated that the International Bureau would make it clear in the Notes that Contracting Parties could allow for such a practice but would not be obliged to accept it.

Paragraph (3). It was indicated that this paragraph would not appear in the next draft, since the revised draft of paragraph (1) would provide that, where one of the forms for the appointment of a representative provided for in the Regulations was used, the appointment had to be accepted.

Paragraph (4). This paragraph was approved as proposed.

Paragraph (5). It was agreed that this paragraph should be redrafted along the following

lines: 'Any Contracting Party may require that, where the applicant or the holder allows the representative appointed under paragraphs (1) or (2) to appoint one or more sub-representatives to represent the applicant or the holder as their representatives, an express indication to that effect be given in the communication appointing the representative as provided for in the said paragraphs.'

Paragraph (6). It was agreed to delete this paragraph, it being understood that any Contracting Party would be free to consider that the appointment of a new representative entailed the termination of the appointment of any previous representative.

Paragraph (7). This paragraph was approved, subject to the deletion of the last sentence.

Paragraph (8). This paragraph was approved, subject to the deletion, in the second line of subparagraph (a), of the reference to paragraph (6).

Paragraph (9). This paragraph was approved as proposed."

Draft Article 12: Correction of a Mistake

Article 12 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Correction of a Mistake in Respect of a Registration] (a) *Each Contracting Party shall accept that the request for the correction of a mistake be made in a communication signed by the holder or his representative and indicating the registration number of the registration concerned, the mistake to be corrected and the correction to be entered. As regards the requirements concerning the presentation of the request, no Contracting Party shall refuse the request,*

(i) *where the request is presented in writing on paper, if it is presented, subject to subparagraph (b), on the request form provided for in the Regulations,*

(ii) *in case the Contracting Party allows the sending of communications to its Office by telecopier, if the paper copy resulting from such transmittal corresponds, subject to subparagraph (b), to the request form referred to in item (i),*

(iii) *in case the Contracting Party allows the sending of communications to its Office by electronic means, if the communication is effected in the manner prescribed in the Regulations.*

(b) *Any Contracting Party may require that the request be in the official language, or in one of the official languages, of its Office.*

(c) *Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.*

(d) *A single request shall be sufficient even where the correction relates to more than one registration of the same person, provided that the mistake and the requested correction are the same for each of them and that the registration numbers of all registrations concerned are indicated in the request.*

(2) [Correction of a Mistake in Respect of Applications] *Paragraph (1) shall apply, mutatis mutandis, where the mistake concerns an application or applications or both an application or applications and a registration or registrations, provided that, where the application number of an application concerned is not yet known, the request otherwise identifies that application as prescribed in the Regulations.*

(3) [Prohibition of Other Requirements] *No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) be complied with in respect of the request referred to in this Article.*

(4) [Kind of Mistake] *Any Contracting Party shall be free to exclude in its law certain kinds of mistakes from the application of paragraphs (1) and (2)."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 12 reads as follows:

"Paragraphs (1) to (3). These paragraphs were approved as proposed.

Paragraph (4). It was agreed that this paragraph would be redrafted in order to make it clear that no Contracting Party was obliged to apply Article 12 to any mistake which could not be corrected under its law.

New paragraph. It was agreed that the new draft would contain a provision along the following lines: 'Any Contracting Party may require that evidence be furnished to its Office where that Office may reasonably doubt the veracity of any indication contained in the request.'"

Draft Article 13: Request for Renewal

Article 13 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Indications or Elements Contained in or Accompanying a Request for Renewal; Fees] (a) *Any Contracting Party may require that a request for the renewal of a registration contain*

some or all of the following indications or elements:

(i) an express or implicit indication that the renewal of a registration is sought;

(ii) the name and address of the holder;

(iii) the date and the registration number of the registration concerned;

(iv) the name and address of the representative, if any, of the holder or the address for service of the holder on the territory of the Contracting Party, as the case may be;

(v) where the renewal is to be effected for only part of the goods and/or services which are recorded in the register of marks, the names of the goods and/or services for which the renewal of the registration is sought, grouped according to the classes of the Nice Classification and preferably using the terms of the Alphabetical List of Goods and Services established in respect of the said Classification, together with the number of the class of the said Classification to which each group of goods or services belongs;

(vi) evidence that the mark which is the subject of the registration has been used within the period fixed by the law of the Contracting Party, subject to the minimum time limit prescribed in the Regulations, in respect of the goods and/or services covered by the request for renewal;

(vii) a signature by, or other self-identification of, the person specified in paragraph (3) and in the form specified in Article 7.

(b) Any Contracting Party may require that, in respect of the request for renewal, a fee be paid to the Office within the time limit fixed by the law of the Contracting Party, subject to the minimum time limit prescribed in the Regulations.

(2) [Language] (a) Any Contracting Party may require that the request for renewal be in the official language, or in one of the official languages, of its Office.

(b) Any Contracting Party may require that the evidence of use referred to in paragraph (1)(a)(vi) be in the official language, or in one of the official languages, of its Office or that the request for renewal be accompanied by a translation or a certified translation of the evidence in the official language, or in one of the official languages, of its Office.

(3) [Signature] Article 3(4)(a) and (b) shall apply, *mutatis mutandis*, to the signature of the request for renewal.

(4) [Single Renewal for Goods and/or Services in Several Classes] Articles 3(5) and 5 shall apply, *mutatis mutandis*, to the request for renewal and to the renewal.

(5) [Prohibition of Other Requirements] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) be complied with in respect of a request for renewal. In particular, the following may not be required:

(i) any reproduction of the mark;

(ii) the furnishing of evidence to the effect that the registration of the mark has been renewed in the register of marks of another Contracting Party.

(6) [Evidence] Any Contracting Party may require that evidence or, where applicable, further evidence, be furnished to its Office in the course of the examination of the request for renewal where that Office may reasonably doubt the veracity of any indication or element contained in the request for renewal.

(7) [Prohibition of Substantive Examination] No Office of a Contracting Party may, for the purposes of effecting the renewal, examine the validity of the registration.

(8) [Duration of Renewal] Each Contracting Party shall provide for a minimum duration of the renewal, as prescribed in the Regulations.

(9) [Limitation of Allowed Requirements After a Transitional Period] Each Contracting Party shall, within a period of [three] [five] years following the date on which it becomes bound by this Treaty, amend its law so that the requirements in respect of a request for renewal of a registration be limited to those referred to in paragraph (1)(a)(i), (iii), (v) and (b) and paragraph (2)(a)."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 13 reads as follows:

"General. It was agreed that Article 13 provided for the maximum that a Contracting Party could require in connection with renewals and that, consequently, a Contracting Party could, for example, accept renewals effected by the mere payment of the renewal fee. It was furthermore agreed that the International Bureau should prepare a renewal form with all the indications and elements which may be required under Article 13 and Rule 9 and that the next draft of Article 13 would provide that, with respect to the presentation of the request for renewal, no Contracting Party could refuse the request if it were presented on that form.

Paragraph (1)(a), introductory phrase. This phrase was approved as proposed.

Item (i). It was agreed that this item would be redrafted as follows: 'a request for renewal.'

Item (ii). This item was approved as proposed.

Item (iii). A number of delegations and of representatives of observer delegations suggested that the words 'the date and' be deleted, since the indication of the number of the registration should be sufficient to identify the registration which was the subject of the request for renewal. Other delegations said that it was desirable for a Contracting Party to be able to require a date in order to avoid errors, particularly if the name and address of the holder were not required to be indicated. Some delegations also said that a Contracting Party should be allowed to require an indication of the filing date rather than the registration date.

Item (iv). This item was approved as proposed.

Item (v). It was agreed that, as it had been agreed upon with respect to Article 3(1)(a)(xiii), the words 'and preferably using the terms of the Alphabetical List of Goods and Services established in respect of the said Classification' should be deleted.

After a thorough discussion of the question as to whether a limitation of the list of goods and/or services could be made in a request for renewal of a registration, it was decided to leave freedom to Contracting Parties to allow such limitation without requiring them to accept it. Consequently, it was agreed that this provision should be redrafted along the following lines: 'where the Contracting Party allows the renewal of a registration to be made for some only of the goods and/or services which are recorded in the register of marks and such a renewal is requested, the names of the recorded goods and/or services for which the renewal is requested or the names of the recorded goods and/or services for which the renewal is not requested, grouped according to the classes of the Nice Classification, together with the number of the class of the said Classification to which each group of goods or services belongs;'

Item (vi). Several delegations, while supporting the principle set out in this item, were of the opinion that it should be redrafted in order not to refer to any period of time during which a mark must be used before the renewal of the registration, because such a condition constituted a substantive requirement which was outside the scope of the Treaty.

One representative of two observer organizations declared that, although the use of the mark should ideally not constitute a requirement for renewal, item (vi) was acceptable. He supported the view expressed by the delegations which had considered that this item should not refer to any time limit, because this was a question of substantive law. Those views were supported by several representatives of observer organizations.

In view of the discussion which had taken place, it was agreed to redraft this item along the following lines: 'where the Contracting Party requires, in connection with renewal, use of the mark which is the subject of the registration, evidence of use as required by that Contracting Party;'

Item (vii). This item was approved, subject to the replacement of the words 'the person specified in paragraph (3) and' by the words 'the holder or his representative.'

Paragraph (1)(b). This provision was approved as proposed. It was indicated that it would be made clear in the Notes that this provision did not prohibit a Contracting Party from requesting an additional fee or a higher renewal fee where it allowed that a limitation of the list of goods and/or services be made in the request for renewal and such limitation was requested (see paragraph (1)(a), item (v), above).

The Delegation of France declared that it reserved its position as regards the question of the minimum time limit referred to in this provision and in draft Rule 9(2). It explained that, on that subject, the question of the compatibility with the Paris Convention of the relevant provisions of the new Intellectual Property Code of its country was pending before the courts.

Paragraphs (2) and (3). These paragraphs were approved as proposed.

Paragraph (4). It was agreed to delete this paragraph, since it seemed to be evident that a multiple class registration should be renewed as such.

As regards registrations effected under the single class system, it was agreed that Contracting Parties which would switch to the multiple class system would be free to provide for the possibility of grouping in a single renewal several single class registrations concerning the same mark.

Paragraph (5). Several delegations indicated that, under the current law of their countries, the request for renewal had to be accompanied by the original certificate of the registration to be renewed and/or by a reproduction of the mark. A number of those delegations added that, for the sake of harmonization, they were ready to examine whether those requirements could not be abandoned.

The Delegation of China stated that, under its current practice, the request for renewal should be accompanied by five reproductions of the mark and by the original certificate of the registration to be renewed and that it wished to be able to maintain those requirements until the end of the transitory period during which its country was

switching from a national classification to the Nice Classification.

A number of delegations and representatives of observer organizations supported paragraph (5), stressing that no requirements should be allowed which were not contained in paragraph (1). As to item (i), they said that it was not necessary that the publication of the renewal contain the reproduction of that mark. Therefore, the furnishing of reproductions should not be required as a condition for renewal. This did not mean that a Contracting Party could not republish, in connection with the publication of the renewal, the reproduction of the mark as registered, which the Office had in its files. What was prohibited was to require from the holder reproductions at the time of the request for renewal. As to item (ii), there was no opposition.

One delegation, referring to the question it had raised in connection with Article 10(1)(e) (see the discussion concerning draft Article 10(1)(e), above), reserved its position on paragraph (5).

Paragraph (6). This paragraph was approved as proposed.

Paragraph (7). A number of delegations and all the representatives of observer organizations which expressed themselves on this provision considered that it was of utmost importance and should remain in the Treaty.

One delegation, while not opposing this paragraph, questioned whether words other than 'validity of the registration' could be used since the validity of a right was eventually decided by judicial authorities.

Two delegations discussed the question whether there was a contradiction between this paragraph and the possibility of requiring proof of use of the mark at the time of renewal (as provided for in paragraph (1)(a)(vi) of this Article). It was agreed that the Notes would clarify that paragraph (7) did not cover any possible requirement to prove use of the mark.

One delegation explained that it could not accept this paragraph since, according to the current law of its country, the Office of its country was entitled to carry out a substantive examination of the mark whose registration was the subject of a request for renewal. This examination consisted in checking whether the mark, at the time of renewal, did not conflict with any emblems protected in its country in accordance with Article 6^{ter} of the Paris Convention or with any similar emblems published by the public authorities of its country or was not contrary to public order or morality or was not liable to mislead the public as to the quality of the goods. Another delegation supported that position.

In response to this latter statement, a number of delegations and representatives of observer organizations, while not contesting the right of an Office to examine a registered mark at any time, considered that such an examination should not be done in conjunction with the renewal procedure.

In conclusion, it was agreed that paragraph (7) should be maintained as proposed.

Paragraph (8). Some delegations were of the opinion that the duration of the renewal should be dealt with in the Treaty itself and not in the Regulations. Other delegations considered, on the contrary, that the question of duration of renewal periods should preferably be dealt with in the Regulations since this solution offered more flexibility with respect to possible future changes. Two delegations were of the opinion that the said question should not be dealt with because, in their view, it was an attempt to harmonize a matter of substantive law which was outside the scope of the Treaty.

It was suggested that one should attempt to establish a fixed duration of renewal instead of providing for a minimum duration. Although it was considered that such an attempt was probably premature, it was agreed to delete the word 'minimum' in the Treaty, but to maintain such a term in the Regulations (draft Rule 9(3)) and to explain in the Notes that, in those Regulations, the notion of minimum duration could eventually be replaced by a fixed period once a consensus had been reached in that respect.

Furthermore, it was agreed that the next draft of Article 13 and Rule 9 should cover not only the duration of the renewal but also the duration of the initial registration.

It was further agreed that the Treaty should not deal with the question of the date from which the renewal periods should be counted since it was not felt necessary to harmonize the date from which the initial period of registration was counted.

Paragraph (9). One delegation, although it generally favored efforts to simplify the procedure of renewal, considered that this provision was too ambitious. It underlined that the indications and elements referred to in items (ii) and (iv) of paragraph (1)(a) were necessary to identify a registration intended to be renewed and that item (vi) had also to be retained. Another delegation pointed out that item (vi) of paragraph (1)(a) should be retained since its country had no intention, as far as the renewal of national registrations was concerned, to change its national law so that evidence of use would no longer be required to be furnished together with the request for renewal.

The representative of an observer organization considered that the furnishing of evidence relating to the use of a mark should, after a certain period, no longer constitute a condition of renewal. He added that any evidence of use could be required before or after the renewal procedure and that the cancellation of unused registered marks could be made following judicial actions or the non-furnishing of affidavits of use.

The two delegations referred to above considered that they saw no advantages in separating the renewal and use requirement procedures, the combination of both being less onerous for users since an important percentage of registrations was not renewed for reason of non-use.

The representative of the observer organization referred to above, while agreeing with those two delegations in the case where the registration of a mark had to be renewed in one country only, said that, where the registration of a mark had to be renewed at the same time in a number of countries, a simplified renewal procedure was preferable since use requirements often differed from country to country.

It was finally agreed that this provision would remain in the draft Treaty but would be put into square brackets.

New paragraph. One delegation suggested that Article 13 should contain an additional provision according to which a request for renewal would have to be accepted if it was presented to the Office of a Contracting Party within a certain period before and after the date on which renewal was due. In that respect, it proposed one year before the date on which renewal was due and six months after that date.

The principle of such a new provision was generally considered interesting although it was not possible to reach an agreement on the duration of the period. It was, therefore, agreed that the International Bureau should make a factual study on the periods provided for in national laws and possibly make a proposal for a provision to be included in the draft Regulations to enable more flexibility for possible future changes."

Draft Rule 9: Details Concerning Renewal

Rule 9 of the draft Regulations as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Period of Use of the Mark] For the purposes of Article 13(1)(a)(vi), the period during which the mark which is the subject of a request for renewal must be used in a Contracting Party in respect of the goods and/or services covered shall not be more than two years preceding the date of filing of the request for renewal.

(2) [Payment of Renewal Fees] For the purposes of Article 13(1)(b), the time limit during which the fees relating to the renewal of a mark may be paid shall not be less than six months counted from the date of filing of the request for renewal. If the law of a Contracting Party so provides, the benefit of this six-month period may be subjected to the payment of a surcharge.

(3) [Duration of Renewal] For the purposes of Article 13(8), each Contracting Party shall provide for a minimum duration of 10 years in respect of the renewal of a registration."

The portion of the report of the Committee of Experts concerning the discussion of draft Rule 9 reads as follows:

"Paragraph (1). It was agreed to delete this paragraph in view of the new wording of Article 13(1)(a)(vi) (see the discussion concerning draft Article 13(1)(a)(vi), above).

Paragraph (2). This paragraph was approved, subject to the replacement of the words 'date of filing of the request for renewal' by the words 'date on which the renewal is due' and subject to the reservation made by the Delegation of France with respect to Article 13(1)(b) and this paragraph (see the discussion concerning draft Article 13(1)(b), above).

Paragraph (3). It was agreed that the International Bureau would redraft this provision in the light of the discussion on paragraph (8) of Article 13 (see the discussion concerning draft Article 13(8), above)."

Draft Article 14: Observations in Case of Intended Refusal

Article 14 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Intended Refusal in Respect of an Application or a Request for Renewal] An application or a request for renewal of a registration may not be refused totally or in part by an Office without giving the applicant or the holder, as the case may be, an opportunity to make observations on the intended refusal within a reasonable time limit.

(2) [Intended Refusal in Respect of a Request Under Articles 9, 10 or 12] A request under Articles 9, 10 or 12 may not be refused totally or in part by an Office without giving the requesting party an opportunity to make observations on the intended refusal within a reasonable time limit. However, the giving of such an opportunity may

be foregone by the Office if the cause of the refusal is that the required fees were not paid."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 14 reads as follows:

"It was understood that, where an application did not comply with a filing date requirement and an invitation was issued under Rule 4, the Office could treat the application as if it had not been filed without having first to issue a second invitation to make observations, if the applicant had not complied with the first invitation.

One delegation wondered whether, in the case of a request for renewal or a request under Articles 9, 10 or 12, it would not be more user-friendly, where the request had such an obvious deficiency that it could not be admitted irrespective of any observations which might be made by the requesting party, to disregard the request and to return it immediately to the requesting party which could then file a new request quickly, rather than to issue a notification announcing the intention to refuse the request and giving the requesting party the possibility of making observations.

It was understood that, if renewal was requested too late, the Office was obliged to give the holder an opportunity to make observations.

It was agreed to delete the last sentence of paragraph (2) so that the same principles would apply to applications and requests for renewal, on the one hand, and to requests under Articles 9, 10 or 12, on the other."

Draft Article 15: Service Marks

Article 15 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"The provisions of the Paris Convention which concern trademarks shall apply to service marks."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 15 reads as follows:

"It was explained that the purpose of this Article was not to modify the Paris Convention, but to provide that Contracting Parties of the Treaty would be obliged to apply the provisions of the Paris Convention which concerned trademarks also to service marks.

It was agreed to amend this Article accordingly, so that it would read: 'The Contracting Parties shall apply the provisions of the Paris

Convention which concern trademarks to service marks.'

In response to one delegation which raised a question with respect to the application of Article 6ter of the Paris Convention to service marks, it was recalled that Article 6ter(1)(a) enabled the competent authorities of any country of the Paris Union to authorize the use of its armorial bearings, flags and other State emblems.

The Delegation of Kenya indicated that the Trade Mark Amendment Bill of 1993, which had been approved by its Government and introduced into the Parliament, provided, *inter alia*, for the registration of service marks and the use of the Nice Classification. Moreover, it indicated that its Government had recently approved Kenya's accession to the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks."

Draft Rule 11: Annexes Considered as Part of the Regulations³

Rule 11 of the Regulations as submitted by the International Bureau to the Committee of Experts read as follows:

"The following standard forms, certificate and document, which are annexed to the present Regulations, shall be considered as an integral part of the Regulations:

- (i) Application form (Annex I);*
- (ii) Form for the request for recordal of a change in names or addresses (Annex II);*
- (iii) Form for the request for recordal of a change in ownership (Annex III);*
- (iv) Certificate of transfer (Annex IV);*
- (v) Transfer document (Annex V);*
- (vi) Power of attorney form (Annex VI);*
- (vii) General power of attorney form (Annex VII);*
- (viii) Form for the request for correction of a mistake (Annex VIII)."*

The portion of the report of the Committee of Experts concerning the discussion of draft Rule 11 reads as follows:

"The International Bureau indicated that, in the French text of the introductory sentence, first line, the words 'document types' should be followed by the word 'suiivants,' and that, in the second line, the words 'règlement d'exécution' should be followed by a comma.

In view of the agreement which had been reached with respect to the preparation of a

³The annexes and the portion of the report referring thereto are not reproduced.

renewal form, it was agreed that an additional item should be added to this Rule.

As regards the question as to whether the forms should be an integral part of the Regulations or whether they could be established and amended without decisions of the Assembly, see the general comments on the forms.⁴

Draft Article 16: Establishment of a Union

Article 16 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

“The Contracting Parties of this Treaty constitute a Union for the purposes of this Treaty.”

The portion of the report of the Committee of Experts concerning the discussion of draft Article 16 reads as follows:

“No comments were made on this draft Article. The Director General explained that the Union which would be established would be one of those which entailed no financial obligation for its members.”

Draft Article 17: Assembly

Article 17 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

“(1) [Composition] (a) The Union shall have an Assembly consisting of the Contracting Parties.

(b) Each Contracting Party shall be represented by one delegate, who may be assisted by alternate delegates, advisors and experts.

(c) The Union shall not bear the expenses of the participation of any delegation in any session of the Assembly.

(2) [Tasks] (a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Treaty;

(ii) modify this Treaty in accordance with Article 20(2);

(iii) exercise such rights and perform such tasks as are specifically conferred upon it or assigned to it under this Treaty;

(iv) give directions to the Director General concerning the preparations for any conference referred to in Article 20(1) or Article 21 and decide the convocation of any such conference;

(v) review and approve the reports and activities of the Director General concerning the Union, and give him all necessary instructions concerning matters within the competence of the Union;

(vi) establish such committees and working groups as it deems appropriate to achieve the objectives of the Union;

(vii) determine which States and intergovernmental organizations, other than Contracting Parties, and which non-governmental organizations shall be admitted to its meetings as observers;

(viii) take any other appropriate action designed to further the objectives of the Union and perform such other functions as are appropriate under this Treaty.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) [Representation] A delegate may represent one Contracting Party only.

(4) [Voting] (a) Each Contracting Party that is a State shall have one vote and shall vote only in its own name.

(b) Any intergovernmental organization referred to in Article 22(1)(ii) that is a Contracting Party may exercise the right to vote of its member States that are Contracting Parties and are present at the time of voting. The intergovernmental organization may not, in a given vote, exercise the right to vote if any of its member States participates in the vote or expressly abstains.

(5) [Quorum] (a) One-half of the Contracting Parties that have the right to vote shall constitute a quorum, provided that, for the purposes of determining whether there is a quorum in respect of any question concerning any matter on which a declaration under Article 24 has been made, any Contracting Party not having the right to vote on that question shall not be counted.

(b) In the absence of the quorum, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the quorum and the required majority are attained through voting by correspondence.

(6) [Majorities] (a) Subject to Articles 19(2)(b) and (3) and 20(2), the decisions of the Assembly shall require a majority of the votes cast.

(b) Abstentions shall not be considered as votes.

⁴ The forms and the portion of the report referring thereto are not reproduced.

(7) [Sessions] (a) *The Assembly shall meet once in every second calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.*

(b) *The Assembly shall meet in extraordinary session upon convocation by the Director General, either at the request of one-fourth of the Contracting Parties or on the Director General's own initiative.*

(8) [Rules of Procedure] *The Assembly shall adopt its own rules of procedure.*"

The portion of the report of the Committee of Experts concerning the discussion of draft Article 17 reads as follows:

"Paragraph (1). No comments were made on this provision.

Paragraph (2)(a)(i). No comments were made on this provision.

Item (ii). It was understood that the question as to what extent the Assembly should be entitled to modify the Treaty would be dealt with under draft Article 20 (see the discussion concerning draft Article 20, below).

Items (iii) to (viii). No comments were made on those provisions.

Paragraph (2)(b). No comments were made on this provision.

Paragraph (3). No comments were made on this provision.

Paragraph (4). The Delegation of the European Communities suggested amending this paragraph by deleting, in subparagraph (a), the words 'that is a State' and deleting subparagraph (b). It explained that the European Communities would have its own trademark office, which would be independent from the industrial property offices of its Member States and would have its own administrative rules; therefore, the European Communities as a Contracting Party should have its own vote. The Delegation of the State currently exercising the Office of the Presidency of the European Communities and the delegations of two other Member States of the European Communities expressly endorsed this position.

The delegations of several States not members of the European Communities said either that they could not agree with the proposal of the European Communities because it would, *de facto*, make unequal the voting power of the Contracting States or that they reserved their position.

The Director General stated that this question was not yet ripe for decision and that it should be rediscussed at the next meeting.

It was agreed to add a further provision (subparagraph (c)) along the following lines: 'No Contracting Party shall have the right to vote on questions concerning matters in respect of which it has made a declaration under Article 24.'

Paragraphs (5) to (8). No comments were made on these provisions."

Draft Rule 10: Absence of Quorum in the Assembly

Rule 10 of the draft Regulations as submitted by the International Bureau to the Committee of Experts read as follows:

"In the case provided for in Article 17(5)(b), the International Bureau shall communicate the decisions of the Assembly (other than those concerning the Assembly's own procedure) to the Contracting Parties having the right to vote which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of that period, the number of Contracting Parties having thus expressed their vote or abstentions attains the number of Contracting Parties which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains."

The portion of the report of the Committee of Experts concerning the discussion of draft Rule 10 reads as follows:

"No comments were made on this provision."

Draft Article 18: International Bureau

Article 18 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

(1) [Tasks] *The International Bureau of the Organization shall:*

(i) *perform the administrative tasks concerning the Union, as well as any tasks specifically assigned to it by the Assembly;*

(ii) *provide the secretariat of the conferences referred to in Articles 20(1) and 21, of the Assembly, of the committees and working groups established by the Assembly, and of any other meeting convened by the Director General under the aegis of the Union.*

(2) [Director General] *The Director General shall be the chief executive of the Union and shall represent the Union.*

(3) [Meetings Other than Sessions of the Assembly] *The Director General shall convene any committee and working group established by the Assembly and all other meetings dealing with matters of concern to the Union.*

(4) [Role of the International Bureau in the Assembly and Other Meetings] (a) *The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly, and any other meetings convened by the Director General under the aegis of the Union.*

(b) *The Director General or a staff member designated by him shall be ex officio secretary of the Assembly, and of the committees, working groups and other meetings referred to in subparagraph (a).*

(5) [Conferences] (a) *The Director General shall, in accordance with the directions of the Assembly, make the preparations for any conference referred to in Article 20(1) or Article 21.*

(b) *The Director General may consult with intergovernmental and international and national non-governmental organizations concerning the said preparations.*

(c) *The Director General and staff members designated by him shall take part, without the right to vote, in the discussions at any conference referred to in subparagraph (a).*

(d) *The Director General or a staff member designated by him shall be ex officio secretary of any conference referred to in subparagraph (a)."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 18 reads as follows:

"No comments were made on this provision."

Draft Article 19: Regulations

Article 19 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Content] *The Regulations annexed to this Treaty provide rules concerning*

(i) *matters which this Treaty expressly provides to be 'prescribed in the Regulations';*

(ii) *any details useful in the implementation of the provisions of this Treaty;*

(iii) *any administrative requirements, matters or procedures.*

(2) [Amending the Regulations] (a) *The Assembly may amend the Regulations and shall determine the conditions for the entry into force of each amendment.*

(b) *Subject to paragraph (3), any amendment of the Regulations shall require three-fourths of the votes cast.*

(3) [Requirement of Unanimity] (a) *The Regulations may specify rules which may be amended only by unanimous consent.*

(b) *Exclusion, for the future, of any rule designated as requiring unanimous consent for amendment from such requirement shall require unanimous consent.*

(c) *Inclusion, for the future, of the requirement of unanimous consent for the amendment of any rule shall require unanimous consent.*

(4) [Conflict Between the Treaty and the Regulations] *In the case of conflict between the provisions of this Treaty and those of the Regulations, the former shall prevail."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 19 reads as follows:

"No comments were made on this provision."

Draft Article 20: Revision and Modification

Article 20 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Revision] *This Treaty may be revised by a conference of the Contracting Parties.*

(2) [Modification] *With the exception of this paragraph, the provisions of this Treaty may be modified by a decision of the Assembly, provided that no Contracting Party votes against the modification."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 20 reads as follows:

"Following a question raised as to the difference between the revision of the Treaty and the modification of the Treaty, the Director General said that a revision of the Treaty could only result from a diplomatic conference and that in such a conference a decision could be taken by majority or unanimity depending on the Rules of Procedure of the Conference; the instrument adopted by the diplomatic conference would require for its entry into force ratification or accession by the number of States indicated in the instrument, and entry into force would occur only with respect to States having deposited an instrument of ratification or accession. On the other hand, a modification of the Treaty by a decision of the Assembly would enter into force without any ratification or

accession and would be binding on all Contracting Parties; however, the modification (under this draft Treaty) would require unanimity of the Contracting Parties having voted. He also said that some treaties administered by WIPO already provided for the possibility of modifying specific provisions by a decision of the Assembly, such as, under Articles 47(2) and 61 of the Patent Cooperation Treaty (PCT), provisions relating to time limits and administrative and budgetary provisions.

Several delegations declared that they had problems with paragraph (2) of this Article as presently drafted, one of those delegations pointing out that it would be obliged to oppose any modification which would require its own primary law to be changed since, in its country, only Parliament could make such changes.

It was agreed that, in the next draft, paragraph (2) would be amended to specify either those provisions to which it would apply or those provisions to which it would not apply. Provisions on substantive trademark law would be excluded from the applicability of paragraph (2); they would be modified only by conferences of revision and not by the Assembly."

Draft Article 21: Protocols

Article 21 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"For the purposes of further developing the harmonization of laws on marks, protocols may be adopted by a conference of the Contracting Parties, provided that the provisions of any such protocol shall not contravene the provisions of this Treaty. Only Contracting Parties may become party to any such protocol."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 21 reads as follows:

"After several delegations had expressed doubts about the legal nature of this Article and about the need for such a provision in view of the existence of Article 20, it was explained that Article 21 was intended to facilitate further harmonization in the field of marks without having to revise or modify the Treaty. A protocol under Article 21 could, for example, limit the maximum list of the indications and elements which could be required under the Treaty in an application or in a request for renewal; such limitation would be effective only for those of the Contracting Parties of the Treaty which would accept the Protocol. It was added that, in the next

draft, the words 'shall not contravene the provisions of this Treaty' should be clarified.

The representative of an observer organization stressed the importance of this draft Article with a view to further harmonization, a goal which was considered highly desirable. This view was shared by two delegations."

Draft Article 22: Becoming Party to the Treaty

Article 22 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Eligibility] The following may become party to this Treaty:

(i) any State which is a party to the Paris Convention and in respect of which marks may be registered either through the State's own Office or through the Office of another Contracting Party;

(ii) any intergovernmental organization which is competent in matters governed by this Treaty and which has established, on such matters, norms that are binding on all its member States or which maintains an Office registering marks with effect in more than one State, provided that all of its member States are party to the Paris Convention.

(2) [Signature; Deposit of Instrument] To become party to this Treaty, the State or the intergovernmental organization shall:

(i) sign this Treaty and deposit an instrument of ratification, or

(ii) deposit an instrument of accession.

(3) [Condition as to Effect of Instrument] (a) Any instrument of ratification or accession (hereinafter referred to as 'instrument') may be accompanied by a declaration making it a condition to its being considered as deposited that the instrument of one State or one intergovernmental organization, or the instruments of two States, or the instruments of one State and one intergovernmental organization, specified by name and eligible to become party to this Treaty according to paragraph (1)(i) or (ii), is or are also deposited. The instrument containing such a declaration shall be considered to have been deposited on the day on which the condition indicated in the declaration is fulfilled. However, when the deposit of an instrument specified in the declaration is, itself, accompanied by a declaration of the said kind, that instrument shall be considered as deposited on the day on which the condition specified in the latter declaration is fulfilled.

(b) Any declaration made under paragraph (a) may be withdrawn, in its entirety or in part, at

any time. Any such withdrawal shall become effective on the date on which the notification of withdrawal is received by the Director General."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 22 reads as follows:

"Paragraph (1). The Delegation of the European Communities declared that, for the sake of coherence with its proposal relating to paragraph (4) of draft Article 17, this paragraph should be amended in order to take into account the existing situation in the European Communities. Therefore, it suggested that item (ii) be reworded as follows: 'Any regional economic integration organization which is competent in matters governed by this Treaty and which maintains a regional Office for the purposes of registering marks with effect in the territory of the organization, provided that all its member States are party to the Paris Convention.'

The delegations of three States not members of the European Communities reserved their position on this matter. One of those delegations recalled that a similar discussion had taken place during the fifth session of the Committee of Experts on the Settlement of Intellectual Property Disputes Between States, which was held in Geneva from May 10 to 21, 1993 (see the report of this session in WIPO document SD/CE/V/6) and that the Delegation of the European Communities had agreed to furnish additional information in response to questions raised during that session. At least three of those questions would be relevant to the present exercise, namely: (i) what are the differences between the notion of intergovernmental organization and the notion of regional economic integration organization? (ii) in which treaties did the latter notion exist? and (iii) was this notion of regional economic integration applicable to organizations other than the European Communities?

The Director General indicated that, even if the notion of a regional economic integration organization was retained, a specific provision was still needed for organizations that would qualify without being economic integration organizations, such as the 'Organisation africaine de la propriété intellectuelle (OAPI).'

It was agreed that this matter should be reconsidered at a later stage.

Paragraph (2). One delegation suggested that the words 'acceptance or approval' be included after the word 'ratification,' in this provision and in all the other provisions where the word 'ratification' appeared.

Paragraph (3). In reply to a question raised by one delegation concerning paragraph (3)(a), the

Director General said that it would not be reasonable to allow a State or an organization to make the effect of its instrument dependent on the deposit of an unlimited number of other instruments and that two such other instruments seemed to be a reasonable number."

Draft Article 23: Effective Date of Ratifications and Accessions

Article 23 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Entry Into Force of the Treaty] This Treaty shall enter into force three months after five States or intergovernmental organizations have deposited their instruments of ratification or accession.

(2) [Ratifications and Accessions Subsequent to the Entry Into Force of the Treaty] Any State or intergovernmental organization not covered by paragraph (1) shall become bound by this Treaty three months after the date on which it has deposited its instrument of ratification or accession, unless a later date has been indicated in the instrument. In the latter case, the said State or intergovernmental organization shall become bound by this Treaty on the date thus indicated."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 23 reads as follows:

"No comments were made on this provision."

Draft Article 24: Reservations

Article 24 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Single Application or Request for Renewal for Goods and Services in Several Classes] (a) Any State or intergovernmental organization may, through a reservation according to paragraph (2), declare that, notwithstanding the provisions of Articles 3(5) and 13(4), an application or a request for renewal shall be filed with its Office only in respect of goods or services which belong to one class of the Nice Classification.

(b) Any reservation under subparagraph (a) shall lose its effect at the end of the [third] [fifth] calendar year following the date on which the Contracting Party concerned becomes bound by this Treaty.

(2) [Possibility of Making Reservations] (a) Any reservation under paragraph (1) shall be

made in a declaration accompanying the instrument of ratification of, or accession to, this Treaty of the State or intergovernmental organization concerned and may be made only if the said instrument is deposited not later than the end of the eighth calendar year after the year in which this Treaty has been adopted.

(b) No reservations to this Treaty other than the reservation allowed under paragraph (1) are permitted."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 24 reads as follows:

"Paragraph (1)(a). One delegation recalled that intensive studies were under way in its country concerning the possible need to extend the scope of Article 24(1)(a) so that reservations could also be made in respect of Articles 9(2), 10(3), 11(2) and 12(1)(d).

Another delegation said that its country might need to be able to make a reservation with respect to Article 6.

Paragraph (1)(b). It was agreed that this provision would be examined at a later stage.

Paragraph (2). No comments were made on this provision."

Draft Article 25: Special Notifications

Article 25 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [States] (a) Any State in respect of which marks may be registered only through the Office of another Contracting Party or through a regional Office common to several States shall notify this fact and shall identify such Contracting Party or such regional Office.

(b) Any change in the fact notified by a State under subparagraph (a) shall be promptly notified by such State.

(2) [Intergovernmental Organizations] (a) Any intergovernmental organization referred to in Article 22(1)(ii) shall notify the list of its member States and, if its norms deal with only some of the matters covered by Articles 3 to 15, shall notify this fact and shall, among the provisions of the said Articles, identify those provisions with which its norms deal. The other provisions of the said Articles shall not bind the intergovernmental organization.

(b) If the norms of any intergovernmental organization referred to in subparagraph (a) later deal with any matter covered by Articles 3 to 15 concerning which the intergovernmental organiza-

tion has not made a notification under subparagraph (a), the intergovernmental organization shall be bound by the corresponding provisions of this Treaty and shall promptly notify the relevant changes in its norms.

(3) [Time of Notification] (a) Any notification under paragraphs (1)(a) and (2)(a) shall accompany the instrument of ratification or accession.

(b) Any change under paragraphs (1)(b) and (2)(b) shall be notified promptly in a declaration addressed to the Director General."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 25 reads as follows:

"Paragraphs (1) and (2). It was agreed that these provisions would specify that the notifications referred to therein had to be addressed to the Director General.

Paragraph (3). No comments were made on this provision."

Draft Article 26: Denunciation of the Treaty

Article 26 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Notification] Any Contracting Party may denounce this Treaty by notification addressed to the Director General.

(2) [Effective Date] Denunciation shall take effect one year from the date on which the Director General has received the notification. It shall not affect the application of this Treaty to any application pending or any mark registered in respect of the denouncing Contracting Party at the time of the expiration of the said one-year period."

The portion of the report of the Committee of Experts concerning the discussions of draft Article 26 reads as follows:

"No comments were made on this provision."

Draft Article 27: Languages of the Treaty; Signature

Article 27 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Original Texts; Official Texts] (a) This Treaty shall be signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic.

(b) *Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.*

(2) [Time Limit for Signature] *This Treaty shall remain open for signature at the headquarters of the Organization for one year after its adoption.*"

The portion of the report of the Committee of Experts concerning the discussion of draft Article 27 reads as follows:

"The Delegation of Portugal proposed that the Portuguese language be added in paragraph (1)(a)."

Draft Article 28: Depositary

Article 28 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"The Director General shall be the depositary of this Treaty."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 28 reads as follows:

"No comments were made on this provision."

Future Work

The portion of the report of the Committee of Experts concerning future work reads as follows:

"The Director General referred to the declaration he had made at the opening of this session and indicated that the sixth session of the Committee of Experts and the only session of the Preparatory Meeting for the Diplomatic Conference were scheduled to take place from November 29 to December 10, 1993. He added that, depending on the decision of the Governing Bodies in September 1993, the Diplomatic Conference would be scheduled for late in 1994, in which case the preparatory documents of that Conference would be distributed around March 1994.

In reply to a remark made by one delegation concerning the possible need for an additional session of the Committee of Experts before the Diplomatic Conference, the Director General said that, in his opinion, the present session had sufficiently narrowed former divergencies of opinion so that only one more session of the Committee of Experts should be sufficient for the preparation of the text to be submitted to the Diplomatic Conference for its decision. Should, however, the Committee of Experts consider, at the end of its sixth session, that a further session was necessary, the Director General could convene an extraordinary session of the Assembly of the Paris Union to consider the need for the holding of such a further session. In that case, the Diplomatic Conference could hardly take place before 1995.

In reply to a question of one delegation concerning the status of the explanatory Notes, the Director General said that the Notes which would appear in the preparatory documents for the Diplomatic Conference would not be adopted by the Conference but would—as the whole history of the preparatory work, including the minutes of the Conference—be a source of interpretation of the Treaty."

Permanent Committee on Industrial Property Information (PCIPI)

PCIPI Ad Hoc Working Group on Long-Term IPC Revision Policy (PCIPI/IPC)

Second Session
(Geneva, June 1 to 4, 1993)

The PCIPI Ad Hoc Working Group on Long-Term IPC Revision Policy (PCIPI/IPC) held its second session in Geneva from June 1 to 4, 1993.¹ The following 20 members of the Working

Group were represented at the session: Australia, Brazil, Canada, Denmark, Finland, France, Germany, Hungary, Japan, Netherlands, Norway, Portugal, Romania, Russian Federation, Spain, Sweden, Switzerland, United Kingdom, United States of America, European Patent Office (EPO). The Patent Documentation Group (PDG) and the publishers of the journal *World Patent Information* were represented by observers.

The Working Group agreed that the proposal for a compromise solution that would reduce the cost of the revision work and improve the International Patent Classification (IPC) as a search tool, which

¹ For a note on the first session, see *Industrial Property*, 1993, p. 107.

had been put forward by the International Bureau and discussed by the Working Group at its first session in November 1992, could not be implemented since it would entail various practical problems for offices, for example, the complex maintenance of manual search files, the necessary modification of existing data bases and the high risk of confusing the different users of the IPC by the introduction of a further type of IPC symbol and the use of unofficial subgroups and unofficial versions of the IPC.

The Working Group agreed that strict criteria applied rigorously in the selection process would serve as a valuable instrument to ensure that the revision program was not overburdened and that projects meriting consideration were included in that program. It agreed to recommend to the PCIPI Executive Coordination Committee new criteria for the selection of IPC revision requests, including certain instructions concerning the work of the PCIPI Working Group on Search Information (PCIPI/SI), relating to the recommended selection criteria.

The Working Group also agreed that the policy for the IPC revision work during the current (fifth) revision period should form the basis, subject to some minor changes, for the IPC revision work during the sixth revision period (1994-99).

The Working Group further agreed to recommend to the PCIPI Executive Coordination Committee that the future development of indexing schemes in the IPC be considered during the 1994-95 biennium, in view of problems experienced by the users in the application of the present indexing schemes, and to study the desirability and feasibility of introducing a light-indexing scheme applicable throughout the IPC.

PCIPI Ad Hoc Working Group on the Management of Industrial Property Information (PCIPI/MI)

Eleventh Session
(Geneva, June 3 to 9, 1993)

The PCIPI Ad Hoc Working Group on the Management of Industrial Property Information (PCIPI/MI) held its eleventh session in Geneva from June 3 to 9, 1993.²

The following 31 members of the Working Group were represented at the session: Australia, Austria, Brazil, Bulgaria, Burkina Faso, Canada, China, Democratic People's Republic of Korea, Denmark, Finland, France, Germany, Hungary, Ireland, Israel, Japan, Mexico, Netherlands, Norway, Philippines,

Poland, Portugal, Republic of Korea, Romania, Russian Federation, Spain, Sweden, Switzerland, United Kingdom, United States of America, EPO. Colombia, Jordan, Zimbabwe, the Commission of the European Communities (CEC), the PDG and the publishers of the journal *World Patent Information* were represented by observers.

The EPO made a detailed presentation on the progress of the EASY (*Electronic Application System*) project whose objective is to facilitate and encourage the filing of patent applications in electronic form.

As to the development of standards related to machine-readable data, the EPO indicated that they were not yet finalized as they were still undergoing tests.

After detailed discussions of the proposed definitions of the expression "internal use" by an industrial property office in relation to data received from other industrial property offices, and of a draft questionnaire on the same subject, the Working Group requested the International Bureau to circulate a new draft of the definitions and a new version of the draft questionnaire requesting information on the same matter.

PCIPI Working Group on Search Information (PCIPI/SI)

Eleventh Session
(Geneva, June 12 to 25, 1993)

The PCIPI Working Group on Search Information (PCIPI/SI) held its eleventh session in Geneva from June 12 to 25, 1993.³ Fifteen members of the Working Group, namely, Belgium, Denmark, Finland, France, Germany, Japan, Norway, Portugal, Romania, Spain, Sweden, Switzerland, the United Kingdom, the United States of America, and the EPO, were represented at the session.

The Working Group finalized its preparatory work for the sixth edition of the IPC, which will enter into force on January 1, 1995.

The Working Group also dealt with 77 IPC revision projects on the program for the 1992-93 biennium, of which 24 belonged to the mechanical field, 23 to the chemical field and 30 to the electrical field, and completed the revision projects relating to 73 subclasses.

It was agreed to exclude from indexing use certain IPC groups that were not considered suitable, and certain amendments to the *Guide to the IPC*, in particular to Chapter IV of the *Guide* (relating to

² For a note on the tenth session, see *Industrial Property*, 1993, p. 134.

³ For a note on the tenth session, see *Industrial Property*, 1993, p. 107.

hybrid systems), which made that Chapter clearer, were approved.

PCIPI Executive Coordination Committee (PCIPI/EXEC)

Twelfth Session
(Geneva, June 3 to 11, 1993)

The PCIPI Executive Coordination Committee (PCIPI/EXEC) held its twelfth session in Geneva from June 3 to 11, 1993.⁴

The following 31 members of the Committee were represented at the session: Australia, Austria, Brazil, Bulgaria, Burkina Faso, Canada, China, Democratic People's Republic of Korea, Denmark, Finland, France, Germany, Hungary, Ireland, Israel, Japan, Mexico, Netherlands, Norway, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Spain, Sweden, Switzerland, United Kingdom, United States of America, EPO, Colombia, Jordan, Zimbabwe, the CEC, the PDG and the publishers of the journal *World Patent Information* were represented by observers.

Regarding the recommendation made by the PCIPI/IPC, the Committee adopted stricter quantitative criteria for the selection of IPC revision projects and agreed that the new criteria should be applied to the revision requests not yet having been considered by the Committee and to all revision projects that would have not been completed at the eleventh session of the PCIPI/SI in June 1993, with the exception of those for which substantial work had already been undertaken. The recommendation relating to the policy for the IPC revision work during the sixth revision period (1994-99) was endorsed and it was agreed to recommend the adop-

tion of that policy to the Committee of Experts of the International Patent Classification (IPC) Union.

As regards letter codes, the Committee decided, in view of the necessity to resolve the existing inconsistency in the grouping of letter codes, to include a new task (to revise WIPO Standard ST.16 to achieve a more logical structure of the grouping of letter codes) in the PCIPI work program for the 1994-95 biennium. A new letter code "W" which identifies documents relating to utility model applications or registrations was approved for inclusion in WIPO Standard ST.16. Two-letter codes for the Czech Republic and Slovakia ("CZ" and "SK," respectively) were also approved and the International Bureau was entrusted with the task of reaching agreement by correspondence among the members of the PCIPI on the approval and inclusion in WIPO Standard ST.3 of any new two-letter codes approved by the International Organization for Standardization (ISO).

The following new tasks were included in the PCIPI work program for the 1994-95 biennium:

- (a) study the consequences of electronic filing on the production of certified office copies with particular reference to those used for priority purposes;
- (b) study the question of data carriers to be used for the exchange, between offices, of patent documents and make recommendations to the Committee;
- (c) determine the feasibility of monitoring, in a practical way, the accuracy of the representation of the IPC indexing codes on patent documents;
- (d) consider the future development of indexing schemes in the IPC—in view of problems experienced in the use of present indexing schemes—in particular the desirability and feasibility of introducing a light-indexing scheme applicable throughout the IPC.

The Committee adopted the draft report on the activities of the PCIPI in the 1992-93 biennium and decided, after discussion of the mandates of its Working Groups, to discontinue the Ad Hoc Working Group on Optical Storage (PCIPI/OS) and the PCIPI/IPC and to reassign the tasks of the former Working Groups to other Working Groups.

⁴ For a note on the eleventh session, see *Industrial Property*, 1993, p. 133.

Registration Systems Administered by WIPO

Patent Cooperation Treaty (PCT)

PCT Committee for Technical Cooperation (PCT/CTC)

Fifteenth Session
(Geneva, June 3 to 11, 1993)

The PCT Committee for Technical Cooperation (PCT/CTC) held its fifteenth session in Geneva from June 3 to 11, 1993.¹ The following 27 members of the Committee were represented at the session: Australia, Austria, Brazil, Bulgaria, Burkina Faso, Canada, Democratic People's Republic of Korea, Denmark, Finland, France, Germany, Hungary, Ireland, Japan, Netherlands, Norway, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Spain, Sweden, Switzerland, United Kingdom, United States of America, European Patent Office (EPO). The Commission of the European Communities (CEC), the Patent Documentation Group (PDG) and the publishers of the journal *World Patent Information* were represented by observers.

The Committee approved a new list of periodicals established under the PCT rule relating to minimum documentation.

The Committee considered a proposal to review the 1920 cutoff date for the minimum documentation. However, as studies undertaken by a number of patent offices had shown that recent search reports contained a significant number of citations of documents which had been published prior to 1940, particularly in certain technical fields, it was decided that no change should be made to the present cutoff date.

The Committee also discussed matters related to the use of optical discs as data carriers for the exchange, between patent offices, of patent documents which form part of the PCT minimum documentation.

Meeting of International Authorities Under the PCT (PCT/MIA)

Third Session
(Geneva, June 21 to 25, 1993)

The Meeting of International Authorities under the PCT (PCT/MIA) held its third session in Geneva from June 21 to 25, 1993.

The following eight International Searching and Preliminary Examining Authorities under the PCT were represented at the session: Australian Industrial Property Organisation (AIPO), Austrian Patent Office, Committee of the Russian Federation for Patents and Trademarks (ROSPATENT), EPO, Japanese Patent Office, Swedish Patent Office, United Kingdom Patent Office (which will cease to act as an International Preliminary Examining Authority after disposing of the pending cases for which demands have been filed with it before June 1, 1993), United States Patent and Trademark Office (USPTO). The Chinese Patent Office was represented as an observer in the expectation that that Office will start acting as an International Searching and Preliminary Examining Authority under the PCT on January 1, 1994, when China is expected to become bound by the PCT.

The Meeting agreed that certain sections of the Administrative Instructions, certain PCT forms and certain of the PCT Search Guidelines should be modified. The Meeting agreed to modify, in particular, the Administrative Instructions to make more uniform the practice of marking replacement sheets containing amendments submitted in connection with international preliminary examination. Also, the Meeting agreed to modify the demand form for international preliminary examination so as to further protect applicants from mistakes which could preclude their use of Chapter II.

The Meeting did not consider in detail the PCT Preliminary Examination Guidelines inasmuch as the USPTO explained that the existing Guidelines conflict in several respects with its national practice, but that Office agreed to submit concrete proposals for future modifications to the Guidelines.

¹ For a note on the fourteenth session, see *Industrial Property*, 1993, p. 140.

The Meeting further agreed to a uniform manner of handling comparative test results during international preliminary examination and referred the question of how to deal with the filing of two demands for international preliminary examination with two competent International Preliminary Examining Authorities to the PCT Committee for Administrative and Legal Matters (PCT/CAL) for further study.

Application of Rule 32 of the PCT Regulations (Successor States) in the Czech Republic, Kazakhstan, Slovakia and Ukraine

In May and June 1993, further notifications were sent to applicants (or agents of applicants) of 766 international applications under the PCT—having filing dates within the indicated dates—concerning the extension of the effects of such applications to the Czech Republic, Slovakia and Ukraine.

In June 1993, in accordance with Rule 32 of the PCT Regulations, the International Bureau sent notifications to 23,301 applicants (or agents of applicants) of 32,000 international applications under the PCT having international filing dates after December 24, 1991, and before April 17, 1993, informing them of the possibility of requesting, within three months from the date of mailing of the said notifications, the extension of the effects of such applications to Kazakhstan.

Training and Promotion Meetings With PCT Users

Algeria. In June 1993, Mr. Mohammed Salah Bouzeriba, Director General of the Algerian Institute for Standardization and Industrial Property (INAPI), had discussions with WIPO officials in Geneva on the administrative procedures under the PCT and Algeria's possible accession to the PCT.

China. In June 1993, three government officials had discussions with the Director General and other

WIPO officials in Geneva on the preparations for China's forthcoming accession to the PCT, the draft Chinese special provisions concerning the implementation of the PCT and the holding of PCT seminars in China in September and October 1993.

France. In June 1993, a WIPO official spoke on the PCT at a colloquium on industrial property, organized in Poitiers by the Ecole supérieure d'informatique et de gestion de Limoges and co-sponsored by a local firm of patent attorneys. The colloquium was attended by some 30 participants from local enterprises.

Turkey. In June 1993, WIPO organized, under the United Nations Development Programme (UNDP)-financed country project, a study visit for three officials from the Industrial Property Department to the German Patent Office and the EPO in Munich and to WIPO in Geneva. The visit to Munich provided the Turkish officials with an opportunity to familiarize themselves with various aspects of patent examination. At WIPO, they discussed with WIPO officials their Department's possible future functions under the PCT.

United States of America. In June 1993, two officials from the United States Patent and Trademark Office (USPTO) had discussions with WIPO officials in Geneva on the application of the PCT.

Viet Nam. In June 1993, three government officials from the National Office of Industrial Property (NOIP) had discussions with WIPO officials in Geneva on the practical aspects of the functions of a receiving Office under the PCT, to which Viet Nam has been party since March 1993.

Computerization Activities

EASY (Electronic Application SYstem) Project. In June 1993, a WIPO official attended, in The Hague, the second informal meeting on the EASY project for the electronic filing of patent applications, organized by the EPO for its Member States.

Madrid Union

Application of Rule 38 of the Madrid Regulations (Successor States) in Belarus

In June 1993, in accordance with Rule 38 of the Regulations under the Madrid Agreement Concerning the International Registration of Marks, the International Bureau sent 23,625 notices to owners (or

agents of owners) of 41,299 international registrations containing a territorial extension to the Soviet Union having effect before December 25, 1991, informing them of the possibility of requesting, within six months of the said notices, the continuation of the effects of such registrations in Belarus.

Training and Promotion Meetings With Users of the Madrid System

Austria. In June 1993, an official from the Austrian Patent Office was briefed on the administrative procedures under the Madrid Agreement and the Hague Agreement Concerning the International Deposit of Industrial Designs.

Latvia. In June 1993, an official from the Patent Office was briefed in Geneva on the administrative procedures under the Madrid and Hague Agreements.

Computerization Activities

France. In June 1993, two WIPO officials visited the National Institute of Industrial Property (INPI) in

Paris to discuss with government officials there the furnishing by WIPO of data contained in its ROMARIN (Read-Only Memory of Madrid Actualized Registry *IN*formation) CD-ROM product.

International Trademark Association (INTA) (formerly the United States Trademark Association (USTA)). In June 1993, a representative of INTA was briefed at WIPO on the computerized systems under the Madrid Agreement.

In addition, demonstrations of WIPO's ROMARIN CD-ROM product were also given, at the headquarters of WIPO, to visiting government officials from Austria, the Democratic People's Republic of Korea, Germany, Slovenia, the United Kingdom and to a representative of the Union of Industrial and Employers' Confederations of Europe (UNICE).

Activities of WIPO in the Field of Industrial Property Specially Designed for Developing Countries

Africa

Assistance With Training, Legislation and Modernization of Administration

Ghana. In June 1993, a WIPO official undertook a mission to Accra and held discussions with government officials on the draft implementing regulations, prepared by the International Bureau, under the new Patent Law.

Lesotho. In June 1993, a WIPO consultant from Sweden undertook a mission to Maseru to review with a local computer firm the preparation of a computer program for the industrial property offices of Botswana, Lesotho and Swaziland.

Organization of African Unity (OAU). In June 1993, a WIPO official attended the 58th session of

the Council of Ministers and the 29th Conference of Heads of State and Government of the OAU, held in Cairo.

Also in June 1993, Mr. Salim A. Salim, Secretary-General, OAU, and the Assistant Secretary-General, OAU, held discussions with WIPO officials in Geneva on the strengthening of cooperation between the OAU and WIPO.

United Nations Economic Commission for Africa (ECA). In June 1993, an official from ECA held discussions with WIPO officials in Geneva on possible cooperation between ECA and WIPO in favor of the industrialization of Africa.

Arab Countries

Training Courses, Seminars and Meetings

WIPO Arab Regional Training Course on Industrial Property (Morocco). From June 28 to 30, 1993, WIPO organized, in Rabat, a WIPO Arab Regional Training Course on Industrial Property in cooperation with the Government of Morocco. The Course was attended by 19 government officials from Algeria, Bahrain, Egypt, Jordan, Kuwait, Libya, Saudi Arabia, Sudan, Syria, Tunisia, the United Arab Emirates and Yemen and some 20 government officials and private sector representatives from Morocco. Presentations were made by four WIPO consultants from Egypt, France, Jordan and Sweden and two WIPO officials.

Assistance With Training, Legislation and Modernization of Administration

Jordan. In June 1993, a government official had discussions with the Director General and other WIPO officials in Geneva on the modernization of the industrial property system in Jordan.

Kuwait. In June 1993, six members of a Kuwaiti Special Committee entrusted with the task of

strengthening Kuwait's patent system visited WIPO. They had discussions with the Director General and other WIPO officials on the establishment of a modern national patent system, the treaties administered by WIPO, the possible accession of Kuwait to the WIPO Convention, and WIPO's assistance in the establishment of that system, particularly in the preparation of a draft law on patents and industrial designs.

Also in June 1993, at the request of the Kuwaiti Special Committee, the International Bureau prepared and sent to it a draft law on patents and industrial designs.

Morocco. In June 1993, a WIPO consultant from Uruguay visited Casablanca and Rabat to advise the Moroccan Industrial Property Office on the computerization of patent and trademark procedures. This mission took place under the United Nations Development Programme (UNDP)-financed country project.

United Arab Emirates. In June 1993, a government official visited WIPO to discuss the situation of the Trademark Office in that country and future cooperation between the United Arab Emirates and WIPO.

Asia and the Pacific

Training Courses, Seminars and Meetings

WIPO Regional Training Course on Intellectual Property for Developing Countries of Asia and the Pacific (Sri Lanka). WIPO organized, in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation and with the financial support of UNDP, a WIPO Regional Training Course on Intellectual Property for Developing Countries of Asia and the Pacific, which was held in Colombo from June 14 to 25, 1993. The Course was attended by 25 participants from government departments or research institutions of the following 17 countries and one national non-governmental organization: Bangladesh, Bhutan, China, Democratic People's Republic of Korea, Fiji, India, Indonesia, Iran (Islamic Republic of), Malaysia, Mongolia, Myanmar, Nepal, Pakistan, Philippines, Republic of Korea, Singapore, Viet Nam, China Association of Inventions, as well as by 18 government officials and representatives of the private sector from Sri Lanka. Papers were presented by six WIPO consultants from Australia, China, India, the United Kingdom and the United States of

America, two WIPO officials and a government official from Sri Lanka.

WIPO National Roving Seminars on the Patent System and the Use of Patent Information for Technological Development (India). From June 25 to July 2, 1993, WIPO organized, in cooperation with the Government of India and the Federation of Indian Chambers of Commerce and Industry (FICCI) and with the assistance of UNDP, the second WIPO National Roving Seminars on the Patent System and the Use of Patent Information for Technological Development. The Seminars, which lasted one day each, were held in New Delhi, Madras, Ahmedabad and Pune. They were attended in total by 390 participants from the government agencies concerned and from industrial, commercial and research and development organizations. Two WIPO consultants from the United Kingdom and two government officials made presentations at these Seminars. A WIPO official also participated in the Seminars held in New Delhi and Madras.

Assistance With Training, Legislation and Modernization of Administration

China. In June 1993, Professor Luo Haocai, Vice-President of Peking University, and three other professors visited WIPO where they had discussions with the Director General and other WIPO officials concerning possible cooperation in the field of intellectual property law teaching and research.

India. In June 1993, Mr. P.A. Sangma, Minister of State for Labour, and another government official discussed with the Director General and other WIPO officials in Geneva cooperation between India and WIPO.

Also in June 1993, two WIPO officials visited the Trade Marks Registry in Bombay and held discussions with government officials on the planning and implementation of activities under the UNDP-financed country project on the modernization of the Registry.

Also in June 1993, two WIPO officials visited Bombay, Nagpur and New Delhi to undertake an

evaluation and testing of office and computer equipment which had been purchased under the UNDP-financed country project on the modernization of the patent information service (PIS) in Nagpur. That equipment is intended for the modernization and computerization of the operations of PIS in Nagpur and at the offices of the Controller-General of Patents, Designs and Trade Marks in Bombay, Calcutta, Madras and New Delhi.

In late June and early July 1993, a WIPO consultant from the European Patent Office (EPO) and two WIPO officials visited Bombay, Calcutta and New Delhi and undertook preparatory activities for the development of CD-ROM prototypes containing information on Indian patents. The mission was undertaken in the framework of the said UNDP-financed country project.

Philippines. In June 1993, the UNDP Resident Representative in the Philippines visited WIPO to discuss cooperation between UNDP and WIPO in favor of intellectual property in the country.

Latin America and the Caribbean

Training Courses, Seminars and Meetings

WIPO Regional Seminar on Industrial Property Management and Technology Transfer in the Food Processing Industry in Latin America and the Caribbean (Venezuela). From June 1 to 3, 1993, WIPO organized in Caracas, in cooperation with the Latin American Economic System (SELA), a WIPO Regional Seminar on Industrial Property Management and Technology Transfer in the Food Processing Industry in Latin America and the Caribbean. The Seminar was attended by 19 participants from Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Jamaica, Nicaragua, Peru, Trinidad and Tobago, Uruguay, and 44 participants from Venezuela, from government departments, industry, research institutions and the legal profession. Papers were presented by eight WIPO consultants from Argentina, Brazil, Canada, Mexico, the United Kingdom, Venezuela, the UN Economic Commission for Latin America and the Caribbean (ECLAC), the Inter-American Institute for Cooperation in Agriculture (IICA), and two WIPO officials.

WIPO/EPO/Spanish Patent and Trademark Office (OEPT) Training Seminar on Patent Searching and Examination (Madrid, Munich, Geneva). From May 31 to June 21, 1993, WIPO organized, in Madrid and Munich, a Training Seminar on Patent

Searching and Examination, in Spanish, in cooperation with the EPO and OEPT, for 16 government officials from Argentina, Brazil, Chile, Costa Rica, Cuba, Mexico, Nicaragua, Panama, Peru, Uruguay and Venezuela. The Seminar was followed by an information visit to WIPO in Geneva.

WIPO Seminar on Industrial Property, Competitiveness and Economic Development for Andean Countries (Ecuador). From June 22 to 25, 1993, WIPO organized in Quito, in cooperation with the Government of Ecuador, a WIPO Seminar on Industrial Property, Competitiveness and Economic Development for Andean Countries. The Seminar was attended by 70 participants from Ecuador and 14 from Bolivia, Colombia, Peru and Venezuela, from government departments and industrial, commercial, scientific, legal and judicial circles. Papers were presented by four WIPO consultants from Chile, Spain and the EPO, a member of the Board of the Cartagena Agreement (JUNAC), the President of the Andean Court of Justice and a WIPO official.

Assistance With Training, Legislation and Modernization of Administration

Andean Countries. In June 1993, two WIPO officials had discussions in Quito with a member of JUNAC and other JUNAC officials on industrial

property issues and cooperation between WIPO and the Andean countries.

Argentina. In June 1993, a WIPO consultant from the EPO visited the industrial property office in Buenos Aires to advise on the examination of patent applications in the field of biochemistry and biotechnology.

Brazil. In June 1993, two government officials held discussions with WIPO officials in Geneva on possible fields of cooperation between WIPO and Brazil in the trademarks and patent information fields.

Chile. In June 1993, a government official had discussions with WIPO officials in Geneva on cooperation between Chile and WIPO in the industrial property field.

Colombia. In June 1993, at the request of the government authorities, the International Bureau sent to them a note on international trends in the field of patenting of pharmaceutical and chemical products and comments on a draft law on this matter.

Cuba. In June 1993, Mr. Roberto Robaina González, Minister for Foreign Affairs, visited WIPO in Geneva where he was received by the Director General and discussed cooperation between Cuba and WIPO.

Ecuador. In June 1993, a WIPO official had discussions with government officials in Quito on enhancing technical cooperation between Ecuador and WIPO, as well as on Ecuador's possible accession to the Paris Convention.

Honduras. In June 1993, a WIPO consultant from the EPO visited the Industrial Property Registry in Tegucigalpa to advise on patent classification and search. The mission was funded by the UNDP-financed country project.

Mexico. In late June and early July 1993, a WIPO consultant from the EPO visited the Directorate General for Technological Development in Mexico City to advise on the feasibility of the creation of a court specializing in industrial property matters.

Nicaragua. In late June and early July 1993, a WIPO consultant from the EPO visited the Industrial

Property Registry in Managua to advise on patent classification and search. The mission was funded by the UNDP-financed regional project.

Panama. In June 1993, Mr. Pedro Bolívar, Director of the Industrial Property Registry, visited WIPO and met with several WIPO officials to discuss cooperation between Panama and WIPO in the industrial property field.

Uruguay. In June 1993, a WIPO consultant from Chile visited the National Directorate of Industrial Property in Montevideo to advise on the further computerization of the Directorate's industrial property operations. The mission was funded by the UNDP-financed regional project.

Also in June 1993, the Minister of Economic Affairs, Mr. Ignacio de Posadas, and the Director General signed a contract for the implementation by WIPO of a technical cooperation project for Uruguay in the field of industrial property. The project amounts to US\$350,000 and will be funded by the Government from a loan provided by the Inter-American Development Bank (IDB).

Venezuela. In June 1993, a WIPO official met with the Director of the Industrial Property Registry and other government officials in Caracas to discuss cooperation in the industrial property field.

Also in June 1993, at the request of the government authorities, the International Bureau sent to them comments on the draft industrial property law from the view point of that draft's compatibility with the Paris Convention for the Protection of Industrial Property. The former is currently before the Venezuelan Congress.

Latin American Economic System (SELA). In June 1993, a WIPO official had discussions in Caracas with the Permanent Secretary of the Latin American Economic System (SELA) and other SELA officials on future cooperation between WIPO and SELA.

Development-Network Technical Information and Promotion Systems (DEVNET-TIPS). In June 1993, an official from DEVNET-TIPS, a UNDP-financed non-governmental organization based in Rome, visited WIPO in Geneva and had discussions with WIPO officials on possible cooperation between WIPO and DEVNET-TIPS in the patent information field in Latin America.

Development Cooperation (in General)

Training Courses, Seminars and Meetings

WIPO Training Course on Patents and Trademarks (Washington, D.C.). From June 1 to 18, 1993, WIPO and the Government of the United States of America organized, in Washington, D.C., a Training Course on Patents and Trademarks, in English. The Course was attended by five government officials from Bangladesh, Bulgaria and Uruguay whose travel and subsistence costs were funded partly by UNDP-financed projects and partly through funds made available to WIPO by the Government of the United States of America.

WIPO/EPO/Austrian Patent Office/National Institute of Industrial Property (INPI) Training Seminar on the Use of Patent Documentation: Techniques for Searching and Dissemination of Information (The Hague, Paris, Vienna, Geneva). In late June and early July 1993, WIPO organized a Training Seminar on the Use of Patent Documentation: Techniques for Searching and Dissemination of Information, in English and French, in cooperation with the Austrian Patent Office, INPI (France), and the EPO, in The Hague, Paris and Vienna. The Seminar was attended by 20 government officials from Brazil, Burkina Faso, Burundi, Chile, China, Egypt, Guinea, India, Indonesia, Malaysia, Morocco, Nigeria, the Philippines, Singapore, Thailand and Hong Kong, and by an official from the African Intellectual Property Organization (OAPI). The Seminar was followed by a visit to the headquarters of WIPO in Geneva.

WIPO Workshop on Industrial Property Management at Enterprise Level (Geneva). From June 28 to 30, 1993, WIPO organized in Geneva a Workshop on Industrial Property Management at Enterprise Level, under the UNDP-financed interregional project entitled "Support to Service-Oriented Intellectual Property Administrations for Private Sector Development." Fifteen government officials and representatives of the private sector from Algeria, Brazil, China, Colombia, India, Mexico, Nigeria, the Philippines, Turkey, Viet Nam and Zimbabwe participated in the Workshop and shared their experience in organizing patent and trademark services for enterprises. Four WIPO consultants from Austria, France, Germany and the Republic of Korea, four participant-speakers and two WIPO officials made presentations.

Assistance With Training, Legislation and Modernization of Administration

Advice and Assistance Given by WIPO to Developing Countries on the Computerization of Industrial Property Offices

Introduction. The International Bureau began giving advice to developing countries on the computerization of their industrial property administrations at the beginning of the 1980s. With the increasing desire of developing countries to modernize their industrial property offices and to provide better and more efficient services to users, particularly those in industry and commerce, there has been an upsurge of interest in computerization of general office management, procedures for processing patent and trademark applications and patent information services. As a result, in the 1992-93 biennium, there has been a significant rise in requests to WIPO for advice and assistance.

The International Bureau is well placed to provide such advice and assistance as it has, over the years, accumulated experience and know-how in this area from the computerization of its own operations, especially in its international registration activities, and from field experience in dealing with the problems and issues confronting many developing countries in various situations.

Guidelines. The advice and assistance on computerization which the International Bureau gives follows broadly the Guidelines for the Definition of Plans to Automate the Trademark and Patent Operations of Industrial Property Offices in Developing Countries which WIPO published in 1991.

The Guidelines are helpful both for countries which are considering, for the first time, the possibility of computerizing certain procedures and for countries that wish to expand their existing computerized systems.

In those Guidelines, the government authorities of the countries concerned are offered:

(i) directions for making a cost-benefit assessment of computerization (in terms of computer equipment, software design and development, local skilled staff and space requirements, in the short, medium and long term);

(ii) a checklist of the issues which have to be taken into account for the above-mentioned assessment and, where that assessment is favorable, for the drawing up of a computerization plan tailored to the specific needs of each industrial property office. Bottlenecks that are liable to delay or prejudice the

implementation of a computerization project are also identified.

It is indispensable that the drafting of the plan take full account of the applicable laws and regulations and also of administrative procedures and office practices in relation to the operations which are to be computerized in order, where necessary, to rationalize those operations before computerization is introduced.

Forms of Assistance. The International Bureau's assistance in the computerization field takes two main forms: advisory missions and the provision of hardware and software.

Advisory missions by WIPO officials or consultants have been undertaken for varying lengths of time to the countries concerned. Their assignment ranges from carrying out initial surveys and feasibility studies, evaluating work procedures and preparing comprehensive computerization plans to visits to local computer equipment vendors, drawing up tender documents, supervising the installation of the purchased hardware and training computer and administrative personnel on the spot. About 45 developing countries from all the developing regions have so far benefited from this form of assistance.

Some 50 developing countries and two intergovernmental organizations whose members are developing countries have so far benefited from the provision of computer hardware and software in relation to computerization projects in the industrial property field. The hardware supplied consisted mainly of personal computers (PCs) and peripherals, such as printers and CD-ROM readers. The software supplied or developed mainly related to the automation of the administrative procedures for the granting of patents and the registration of marks, the automation of trademark search and the automation of patent information services to users.

The majority of the countries received the PCs, partly financed from UNDP sources, as part of WIPO's efforts to promote the use of industrial property information through CD-ROM technology. In some cases, those efforts were carried out in cooperation with the European Patent Office (EPO) and donor Member States of WIPO.

In some 10 countries, PCs were given in the context of plans by the industrial property offices of those countries to introduce simple computerization of their operations. The acquisition of those PCs was in great part financed by UNDP and Member States of WIPO.

More substantial hardware purchases were made through WIPO in certain countries where national projects existed for the upgrading of their industrial property offices. In these cases, financing came from UNDP or the government concerned. They also paid for the development and/or acquisition of software.

Such national projects permitted the International Bureau to follow through computerization plans and their implementation over a period of at least two to three years. In the development of software, external experts, usually from the private sector, were successfully used as WIPO consultants. In the case of Latin America, a group of such experts was identified and used, which ensured continuity and consistency of advice as well as helped to promote a certain degree of harmonization in the computerization of administrative and technical work in the industrial property offices of the countries concerned in that region. In Africa, a special common software was developed for the industrial property offices of three countries that could be used, after appropriate adaptation, in other African countries.

Future Activities. The International Bureau's assistance to developing countries in this important area of WIPO's development cooperation program will be accelerated in the 1994-95 biennium, particularly in helping industrial property offices eliminate the backlog of industrial property applications and thereby ensuring the timely grant of industrial property titles.

Advice and Assistance Given by WIPO to Developing Countries in the Field of Patent Information and CD-ROM Technology

Introduction. In the past two years, the International Bureau has intensified, within its limited resources, assistance to developing countries in the field of patent information and CD-ROM (Compact Disk-Read-Only Memory) technology, in response to the growing recognition in these countries of the indisputable usefulness of such information for industry and the development of technology, as well as to the obvious advantages of CD-ROM as the best form (from the technical, cost and user points of view) for bibliographic search purposes and for the storage and management of, and access to, patent documents.

Such assistance is in addition to WIPO's ongoing patent information services for developing countries. Those services are offered free of charge and include the supply of reports on the state of the art in any technological field, identification of equivalent patent documents published in various languages, copies of specific patent documents and information on the legal status of patent applications and granted patents.

Advice on the Constitution of a Collection of Patent Documentation. Described below is the gist of the advice which the International Bureau gives to developing countries that plan either to expand or to establish a collection of patent documents.

Each developing country should create two collections of its own national patent documents (applications and/or granted patents) published by the government authority concerned. One collection should be in serial number order and a second collection in classified order, i.e., arranged according to the symbols of the International Patent Classification (IPC).

The form chosen for new national patent documents (CD-ROM or paper) will, of course, depend upon the annual number of national patent documents published, the financial resources available, and the needs for the dissemination of patent information within the country in question.

As far as acquiring a collection of foreign patent documents is concerned, developing countries are urged, subject to any special needs that they might have, to acquire the following patent documents, preferably in the form of CD-ROMs, in the following order of priority:

I. CD-ROMs for search purposes

(i) ESPACE-ACCESS, containing bibliographic data and abstracts of patent documents published by the EPO and of the PCT (Patent Cooperation Treaty) pamphlets;

(ii) CASSIS, containing bibliographic data of US patents published since 1969 and abstracts of those published over the last 36 months, as well as the numerical list and classification of all US patents since 1790;

(iii) APS (Automated Patent Searching), containing the bibliographic data and abstracts or claims of all US patents published since 1975;

(iv) BREF, containing bibliographic data and abstracts (searchable) and one drawing of French patent documents, as well as EP and WO patent applications designating France, published since 1989;

(v) CIBEPAT, containing bibliographic data of patent documents published by Spain and selected Latin American countries published since 1969;

II. CD-ROMs for storage and supply of copies of patent documents (i.e., containing full texts and drawings in facsimile form)

(vi) ESPACE-WORLD, containing for the time being the PCT pamphlets since 1990;

(vii) ESPACE-EP, containing the EPO patent applications published since 1978;

(viii) PATENT IMAGES or PATENTVIEW, containing the US patents published since 1976 and 1992, respectively;

III. Other CD-ROM products

(ix) subject to the language capacity and financial possibilities of the developing country concerned, other patent documents, in particular those forming part of the PCT minimum documentation.

Developing countries should discontinue updating numerical collections of foreign patent documents in paper copies, microfilms or microfiches and replace them, wherever practicable, by those stored in CD-ROMs, while the full texts of foreign patent documents published in the future should be collected in the form of CD-ROMs. Existing collections of foreign patent documents in languages which are normally not understood in the country concerned should be discarded and their future acquisition discontinued.

Provision of Documentation and Equipment. The International Bureau's assistance to developing countries in this area of activity takes three forms. They are:

(i) the provision of CD-ROM workstations to developing countries;

(ii) the provision of CD-ROM collections to developing countries; and

(iii) the production of CD-ROM collections of patent documents.

With respect to the provision of CD-ROM workstations, the International Bureau has been able to offer, from its own funds, as well as funds from UNDP, from certain WIPO Member States, and in cooperation with the EPO, free of charge, standardized CD-ROM workstations (worth approximately US\$10,000 each) to some 45 developing countries from all the developing regions, as well as to the African Industrial Property Organization (ARIPO) and the African Intellectual Property Organization (OAPI). All developing countries which are PCT member States each received a workstation, together with the corresponding PCT CD-ROMs, in substitution for the PCT paper pamphlets. Furthermore, all developing countries which are member States of the Madrid (international trademark registration) Union have each received a workstation and the corresponding CD-ROMs produced under the ROMARIN (Read-Only Memory of Madrid Actualized Registry Information) project, which contain the data relating to the international trademark registrations effected under the Madrid Agreement Concerning the International Registration of Marks.

Special missions to some of the recipient developing countries in Africa were undertaken by WIPO officials or consultants who assisted in the installation of the workstations and in training local staff in their use.

In regard to the provision of CD-ROM collections of patent documents, the International Bureau has—with the assistance of the EPO—provided CD-ROM collections entitled "ESPACE-WORLD," "ESPACE-ACCESS" and "ESPACE-FIRST" to some 30 developing countries and regional organizations. In cooperation with some Member States of

WIPO and the EPO, collections of other patent documents are also provided.

As far as the production of CD-ROM collections is concerned, it should be noted that the International Bureau now publishes, in cooperation with the EPO, its current collection of PCT pamphlets in CD-ROMs and intends to publish the whole backfile of PCT pamphlets going back to 1978.

The International Bureau, in cooperation with the Spanish Patent and Trademark Office and the EPO, contributed to the development and the production in 1992 of a prototype CD-ROM entitled "DOPALES-PRIMERAS" which contains the first pages in facsimile form and the bibliographic data in coded form of patents published in 1990 by the majority of Latin American countries. The regular yearly production of this CD-ROM will start later in 1993.

Further, the International Bureau is preparing a collection of OAPI patent documents in CD-ROM form. This series of some 15 or 16 CD-ROMs is expected to be ready by the end of 1993.

In the framework of a national UNDP-financed project, the International Bureau, in cooperation with the EPO, is assisting the Government of India in publishing Indian patent documents in ESPACE-type CD-ROMs, i.e., facsimile-type CD-ROMs.

Future Activities. It is foreseen that, in the 1994-95 biennium, the International Bureau will further expand its advice and assistance to developing countries in the useful and fast-developing field of industrial property, especially patent, information using CD-ROM technology.

WIPO Medals

In June 1993, a WIPO medal and certificate were awarded to Mr. Fayez Hassan, Doctor of Medicine, an Egyptian inventor, and handed over to him by His Excellency Hosni Mubarak, President of Egypt, in

the presence of African heads of State and government who were attending the 29th Conference of Heads of State and Government of the Organization of African Unity (OAU) in Cairo.

Activities of WIPO in the Field of Industrial Property Specially Designed for Countries in Transition to Market Economy

Regional Activities

Interstate Council on the Protection of Industrial Property. In June 1993, Mr. Valery L. Petrov, Chairman of the State Patent Office of Ukraine and of the Interstate Council on the Protection of Industrial Property, Mr. Vitaly Rassokhin, Chairman of the Committee of the Russian Federation for Patents and Trademarks (ROSPATENT), and Mr. Viktor Blinnikov, First Deputy Chairman of ROSPATENT and President of the Interstate Office for the Protection of Industrial Property had discussions with the Director General and other WIPO officials in Geneva concerning the plans for the establishment of a regional patent system.

National Activities

Latvia. In June 1993, an official of the Patent Office handed over to WIPO officials in Geneva Latvia's instrument of accession to the Paris Convention for the Protection of Industrial Property and the Patent Cooperation Treaty (PCT). He also had discussions with several WIPO officials on the possible continued application of other WIPO-administered treaties to Latvia.

Republic of Moldova. In June 1993, Mr. Sergiu E. Czertan, Minister of Economy, and Mr. Eugen Stashkov, Director General of the State Agency on Intellectual Property Protection, handed over to the

Director General in Geneva the Republic of Moldova's declaration of continued application of the WIPO and Paris Conventions. Discussions were held on industrial property protection in the country and the possible continued application of other WIPO-administered treaties to the Republic of Moldova.

Slovenia. In June 1993, Mr. Bojan Pretnar, Director of the Industrial Property Protection Office,

had discussions with WIPO officials in Geneva on industrial property protection in Slovenia.

Ukraine. In June 1993, Mr. Valery L. Petrov, Chairman of the State Patent Office, had discussions with WIPO officials in Geneva on questions relating to industrial property protection in Ukraine and WIPO's cooperation in organizing a seminar for patent attorneys to be held in Kiev in November 1993.

Other Contacts of the International Bureau of WIPO with Governments and International Organizations in the Field of Industrial Property

National Contacts

Australia. In June 1993, two officials from the Australian Industrial Property Organisation (AIPO) had discussions with the Director General and other WIPO officials in Geneva on the modernization of the Australian trademark system. They were also given a demonstration of the computerized systems and CD-ROM products used at WIPO for the international registration of marks.

Austria. In June 1993, Mr. Otmar Rafeiner, President of the Austrian Patent Office, had discussions with WIPO officials in Geneva on Austria's possible accession to the Hague Agreement Concerning the International Deposit of Industrial Designs.

Malta. In June 1993, an official from the Industrial Property Division of the Department of Trade had discussions with WIPO officials in Geneva concerning Malta's new patent legislation.

United Kingdom. In June 1993, an official from the United Kingdom Patent Office had discussions with WIPO officials in Geneva, in particular on the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol).

United Nations

United Nations Development Programme (UNDP) (Governing Council). In June 1993, two WIPO officials attended the 40th session of the UNDP Governing Council in New York. The WIPO officials also had discussions with various UNDP officials on UNDP-financed projects implemented by WIPO.

United Nations Economic and Social Council (ECOSOC). In late June and early July 1993, two WIPO officials attended, in Geneva, the Regular Session of ECOSOC and the High Level Segment.

United Nations Commission on Sustainable Development. In June 1993, a WIPO official attended the session of the Commission on Sustainable Development, held in New York.

United Nations Joint Staff Pension Board (UNJSPB). In June 1993, a member of the WIPO Staff Pension Committee and two WIPO officials attended the 45th session of the UNJSPB, held in New York.

International Computing Centre (ICC). In June 1993, Mr. Edward Gelbstein, Director of ICC, had

discussions with WIPO officials in Geneva on questions of mutual interest.

Intergovernmental Organizations

Benelux Trademark Office (BBM). In June 1993, a WIPO official attended the inauguration ceremony of the new BBM office building in The Hague.

European Parliament. In June 1993, a WIPO official attended the *Rencontre des assistants sociaux des institutions européennes et internationales* organized by the European Parliament in Luxembourg.

European Patent Organisation/Office (EPO). In June 1993, the Director General, accompanied by another WIPO official, attended a meeting of the Administrative Council of the EPO in Paris which marked, *inter alia*, the 20th anniversary of the European Patent Convention.

International Labour Office (ILO). In June 1993, a WIPO official attended the 80th session of the International Labour Conference in Geneva.

United Nations Industrial Development Organization (UNIDO). In June 1993, two officials from UNIDO visited Geneva to obtain information on WIPO's activities in favor of developing countries.

Other Organizations

American Arbitration Association (AAA). In June 1993, a WIPO official attended, in New York, a meeting of the Corporate Counsel Committee of AAA and made a presentation to members of that Committee on WIPO's activities in the field of arbitration.

Asian Patent Attorneys Association (APAA). In June 1993, Mr. W.D. Howie, President of APAA, had discussions with the Director General and other WIPO officials in Geneva on possible cooperation between WIPO and APAA.

Association of German Textile Industries (Gesamttextil). In June 1993, Mr. Konrad Neundörfer, Secretary General, and another representative

of the Association, had discussions with WIPO officials in Geneva on the proposed revision of the Hague Agreement.

European Communities Trade Mark Association (ECTA). In June 1993, a WIPO official attended the 12th Annual General Meeting and Conference of ECTA in Madrid.

International Association for the Protection of Industrial Property (AIPPI). In June 1993, the Director General and another WIPO official attended, in Lisbon, the Council of Presidents of AIPPI.

International Chamber of Commerce (ICC). In June 1993, a WIPO official attended a meeting on international arbitration and intellectual property rights, organized by ICC in Paris.

International Federation of Commercial Arbitration Institutions (IFCAI). In June 1993, a WIPO official attended an international commercial dispute settlement conference organized in Milan (Italy) by IFCAI and the Chamber of National and International Arbitration of Milan.

International Trademark Association (INTA) (formerly the United States Trademark Association (USTA)). In June 1993, Mrs. Robin Wolfe, Executive Director of INTA, had discussions with the Director General in Geneva on the trademark situation in the successor States of the former Soviet Union.

Licensing Executives Society International (LESI). In June 1993, Mr. Larry Evans, President, and Mr. Fernando Noettinger, former President of LESI, had discussions with WIPO officials in Geneva on the respective work programs of WIPO and LESI.

Also in June 1993, a WIPO official made a presentation on WIPO's arbitration proposals at the 1993 Annual Meeting of LESI held in Berlin.

"World Patent Information" (WPI). In June 1993, a WIPO official attended the Management Committee of the publishers of WPI in Oxford (United Kingdom). The Committee decided that the journal should have the following subtitle: "The International Journal for Industrial Property Documentation, Information and Classification."

Miscellaneous News

National News

Belgium. Royal Decree of January 5, 1993, on the Granting of Supplementary Protection Certificates for Medicines, entered into force on January 2, 1993.

Japan. The Patent Law, as last amended by Law No. 26 of April 23, 1993, will enter into force on a date fixed by Cabinet Order within one year of the date of its promulgation.

Kazakhstan. The Law on Trademarks, Service Marks and Appellations of Origin, of August 5, 1992, entered into force on February 23, 1993.

Mexico. The Federal Law on the Protection of Consumers, of December 18, 1992, entered into force on December 25, 1992.

Slovenia. The Law Amending and Supplementing the Law on Industrial Property, published in Official Gazette No. 27/93 of May 29, 1993, entered into force on June 13, 1993.

United Arab Emirates. Ministerial Decision No. 6 of 1992 Concerning the Executive Regulation of Law No. 37 of 1992 Concerning the Trademarks Law, entered into force on January 12, 1993.

Calendar of Meetings

WIPO Meetings

(Not all WIPO meetings are listed. Dates are subject to possible change.)

1993

- October 11 to 13 (Geneva)** **Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations: Intergovernmental Committee (Fourteenth Ordinary Session)** (convened jointly with ILO and Unesco)
- The Committee will review the status of adherence to the Rome Convention and related questions concerning the protection of neighboring rights.
Invitations: States members of the Intergovernmental Committee and, as observers, other Contracting States, other States members of the United Nations and certain organizations.
- October 13 and 14 (Funchal, Madeira)** **Symposium on the International Protection of Geographical Indications (organized by WIPO in cooperation with the Government of Portugal)**
- The Symposium will deal with the protection of geographical indications (appellations of origin and other geographical indications) both on the national and multilateral level.
Invitations: Governments, selected non-governmental organizations and any member of the public (against payment of a registration fee).
- November 8 to 12 (Geneva)** **Committee of Experts on a Possible Instrument on the Protection of the Rights of Performers and Producers of Phonograms (Second Session)**
- The Committee will continue to examine the question of the preparation of a possible new instrument (treaty) on the protection of the rights of performers and producers of phonograms.
Invitations: States members of WIPO, the Commission of the European Communities and, as observers, certain organizations.
- November 29 to December 10 (Geneva)** **Committee of Experts on the Harmonization of Laws for the Protection of Marks (Sixth Session) and Preparatory Meeting for the Diplomatic Conference for the Conclusion of a Treaty on the Harmonization of Laws for the Protection of Marks**
- The Committee of Experts is expected to complete the preparations for a possible multilateral treaty on the harmonization of laws for the protection of marks. The Preparatory Meeting will decide which substantive documents should be submitted to the Diplomatic Conference and which States and organizations should be invited to the Diplomatic Conference. The Preparatory Meeting will also establish the draft Rules of Procedure of the Diplomatic Conference. Subject to the decision of the Governing Bodies in September 1993, the Diplomatic Conference will be scheduled for late 1994.
Invitations: States members of the Paris Union, the European Communities and, as observers, States members of WIPO not members of the Paris Union and certain organizations.

UPOV Meetings

(Not all UPOV meetings are listed. Dates are subject to possible change.)

1993

- October 27 (Geneva)** **Administrative and Legal Committee**
- Invitations:* Member States of UPOV and, as observers, certain non-member States and inter-governmental organizations.
- October 28 (Geneva)** **Consultative Committee (Forty-Seventh Session)**
- Invitations:* Member States of UPOV.

October 29 (Geneva)

Council (Twenty-Seventh Ordinary Session)

Invitations: Member States of UPOV and, as observers, certain non-member States and inter-governmental and non-governmental organizations.

Other Meetings

1993

October 1 and 2 (Budapest)

International League of Competition Law (LIDC): Study Days

October 6 to 8 (Cincinnati)

Pacific Industrial Property Association (PIPA): International Congress

October 12 to 14 (Lugano)

International Federation of Reproduction Rights Organisations (IFRRO): Annual General Meeting

November 10 to 13 (Rome)

International Federation of Industrial Property Attorneys (FICPI): 1st FICPI Forum

1994

February 2 to 8 (Queenstown)

International Federation of Industrial Property Attorneys (FICPI): Executive Committee

May 4 to 9 (Beijing)

Licensing Executives Society International (LESI): International Conference

May 8 to 11 (Seattle)

International Trademark Association (INTA): 116th Annual Meeting

May 23 to 25 (Turin)

International Publishers Association (IPA): Symposium on the theme "Publishers and New Technology"

May 25 to 28 (Luxembourg)

European Communities Trade Mark Association (ECTA): Annual General Meeting and Conference

May 28 to June 5 (Ostend)

International Federation of the Seed Trade (FIS)/International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL): World Congress

June 12 to 18 (Copenhagen)

International Association for the Protection of Industrial Property (AIPPI): Executive Committee

June 19 to 24 (Vienna)

International Federation of Industrial Property Attorneys (FICPI): Congress

